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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1993

Addendum*

CAMBODIA

[24 November 1997]

* The annexes to this report are available for consultation in the files of the Office of the United Nations High Commissioner for Human Rights.

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Introduction

1. For the last two decades, during which the people of Cambodia have known only war and an extremely harsh life, especially between 1975 and 1979 under the Democratic Kampuchea regime, the application and protection of human rights has been no more than a bitter experience. Having fled the forests, the survivors of the killings crossed the plains and rice fields, following roads and tracks that took them back to their native villages, forgetful of fatigue and hunger and borne along by the joy of recovering their liberty and some of their rights. During the tragedy of the Khmer Rouge regime, which lasted 3 years, 8 months and 20 days, the Cambodian people saw their liberties and fundamental rights trampled upon. Since then they have thirsted for their rights and freedoms. This was the main reason for the massive participation of the Cambodian population in the general elections of May 1993.

2. The Royal Government is keenly aware of this and is continuing to address the numerous problems left over from a sick society. It is endeavouring to protect human rights by every possible means in order to restore the confidence of the people, a decisive factor in the country's development.

3. Pursuant to article 40 of the International Covenant on Civil and Political Rights, on 28 March 1994 the Royal Government set up an Inter-Ministerial Committee, with the Minister of State and Minister of Justice as Chairman, the Secretary of State for Foreign Affairs and International Cooperation as Vice-Chairman, and representatives of the important ministries as members, in order to prepare a report on the observance of human rights in the Kingdom of Cambodia for submission to the Secretary-General of the United Nations.

I. GENERAL

Land and people

4. Cambodia, with a surface area of 181,035 km^2, is situated in South-East Asia. Some two thirds of the country are covered by forests, mountain ranges and hills. The majority of the population live in the plains of the Mekong Delta. According to an economic and social survey carried out in October 1993-1994, Cambodia has a population of 9,869,747 inhabitants, 85 per cent of whom live in rural areas. The average population density is 55 inhabitants per km^2.

Ethnic groups

5. The population of Cambodia is made up of: Khmers (90 per cent), Muslim Khmers or Chams (approximately 200,000), ethnic minorities consisting of 16 groups speaking different languages and living on the high plateaux in the north-eastern part of the country (approximately 75,000), and foreigners (about 200,000 Chinese and 450,000 Vietnamese).

6. Each ethnic group is authorized to use its own language and retains its own practices and customs. However, Khmer is the official language.

Age structure of the population

7. According to the above-mentioned survey, 43.7 per cent of the population are under 15 years of age (boys, 46.6 per cent; girls, 41.1 per cent), while 4.1 per cent are over 65 (men, 3.6 per cent; women, 4.5 per cent). Life expectancy is less than 50 years.

Infant mortality

8. In 1993, the infant mortality rate stood at 117 per 1,000, and the under-five mortality rate at 183 per 1,000. Maternal mortality was estimated at 9 per 1,000. In 31 per cent of infant mortality cases, the cause was premature birth, with birth complications accounting for another 28 per cent of cases. The main causes of death in the two-to-four-year-old age group were respiratory infections (20 per cent), malaria (13 per cent) and diarrhoea (16 per cent).

Religions

9. Buddhism is the State religion and 97.5 per cent of Cambodian citizens are Buddhists. Other religions are also practised, the most widespread being Islam and Catholicism.

Education

10. Children over six years of age receive a minimum of nine years' compulsory primary education in State schools. Secondary schooling, which is not compulsory, lasts three years, and it is also possible to continue studying for four years beyond the primary level. Primary and secondary schooling are free. In higher education, poor students receive State grants. Currently, 37 per cent of adults are still illiterate.

Economy

11. In 1994, gross national product was estimated to be 6,048 billion riels (US$ 2,340 million) at market prices. Measured at constant 1989 prices, GNP increased by 5 per cent in 1994, of which 45 per cent was credited to agriculture, 20 per cent to industry and 35 per cent to the services sector. Agriculture, principally rice production, is a major component of the national economy. Exports include rubber, timber and fisheries products. In 1993, the per capita gross national product was estimated at US$ 180, and the inflation rate was 31 per cent. Unemployment in 1993-1994 stood at 2.5 per cent.

General political structure

Historical background

12. Cambodia met with disaster due to protracted war lasting over two decades, marked principally by the genocide committed by the Khmer Rouge.

13. As a result of the Paris Agreements of 23 October 1991 between the four Cambodian factions (the State of Cambodia, the Khmer People's National Liberation Front (KPNLF), the National United Front for an Independent,

Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC) and Democratic Kampuchea), the Supreme National Council, which represented national sovereignty, was set up with the task of achieving national reunification and reconciliation. The United Nations Transitional Authority in Cambodia (UNTAC) was established to monitor compliance with the Agreements and to organize the general elections of 1993.

14. Following the elections, a Constituent Assembly was convened to draft the Constitution adopted on 21 September 1993. The Constituent Assembly became the National Assembly, after which a Government headed by a First and a Second Prime Minister took office.

Political regime

15. Cambodia has adopted a political system constituting a multi-party liberal democracy. The Kingdom of Cambodia is an independent, sovereign, peaceful, neutral and non-aligned State.

16. The practice of democracy in Cambodia has encountered many initial difficulties. However, the Royal Government is making every effort to ensure the gradual development of democracy, while at the same time strengthening the legal system, the independence of the judiciary and the rule of law, and guaranteeing respect for human rights.

System of government

17. The State is run by three clearly separate powers.

18. With regard to executive power, the King reigns but does not govern. The Royal Government is headed by the Prime Minister, supported by Deputy Prime Ministers, Ministers of State, other Ministers, and Secretaries of State. During the first legislative term, however, the Government was headed by two Prime Ministers, the First Prime Minister and the Second Prime Minister.

19. Legislative power is vested in the National Assembly, which is composed of 120 members elected every five years. Since the 1993 elections, the various parties have held seats in the National Assembly as follows: FUNCINPEC won 58 seats, the Cambodian People's Party 51 seats, the Buddhist Liberal Democratic Party (BLDP) 10 seats, and MOLINAKA (National Liberation Movement of Cambodia) 1 seat.

20. Under article 109 of the Constitution, the judicial power is independent. The courts have exclusive competence to deal with all actions, including administrative cases. Since 1993, there have been two levels of jurisdiction. The 21 courts of first instance, established in all provinces and municipalities, hand down first judgements. The Court of Appeal rules on appeals lodged against first judgements by courts of first instance. Decisions of the Court of Appeal may be reviewed by the Supreme Court, which rules on points of law for first appeals and on points of fact and law for second appeals. Apart from the above-mentioned courts, the military court system is competent to judge breaches of military discipline and actions prejudicial to the interests of the armed forces.

21. Article 117 of the Constitution provides for the establishment of a Constitutional Council responsible for verifying the conformity and constitutionality of laws adopted by the National Assembly and the legality of legislative elections. The Council is not yet functioning because of the delay in setting up the Supreme Council of Justice, which must designate three of its members to serve on the Constitutional Council.

22. On 22 December 1994, the National Assembly passed a law on the organization and functioning of the Supreme Council of Justice. Under this law, the Council, over which the King presides, is composed of seven judges and includes the Minister of Justice. It helps the King to guarantee the independence of the judiciary, to decide on the appointment and transfer of judges and to maintain judicial discipline.

23. At the present time, there are 139 judges appointed by the Head of State sitting in the 21 courts of first instance, the Court of Appeal and the Supreme Court. A small number of these work in the Ministry of Justice. The structure of the latter has been reorganized and a General Inspectorate for Judicial Affairs has been established with the task of monitoring the administrative performance of judges. An assembly of judges, organized by the Ministry, is held at the end of each year to assess the activities of the courts and any problems of violations of the law and human rights that need to be addressed. These latest reforms enable the Ministry of Justice to guarantee the independence of the judiciary and to combat violations of the law and human rights.

Administrative organization

24. In Cambodia today there are 19 provinces and three municipalities administered and directed by provincial and municipal governors. These provinces and municipalities are divided into 170 districts and administrative areas under the authority of a governor. The latter, in their turn, are subdivided into 1,545 communes and neighbourhoods administered by heads of communes and neighbourhoods.

Legal framework within which human rights are protected

Authorities having jurisdiction affecting human rights

25. Certain fundamental principles of the protection of human rights are enshrined in the Constitution:

- Right to seek redress in the courts guaranteed for all citizens (art. 39)
- Independence of the judiciary (arts. 109 and 110)
- Requirement for judges to adjudicate with strict respect for the law, honestly and conscientiously (art. 110).

26. According to article 112 of the Constitution, "only the Department of Public Prosecutions shall have the right to bring criminal actions". The victim may always claim criminal indemnification, in accordance with the

established procedure. The Department of Public Prosecutions, represented by the prosecutor attached to the court, institutes criminal proceedings against those accused of violations of human rights.

27. The National Assembly has established a commission on human rights and the reception of complaints. Its role is to protect human rights having due regard for public order. It also maintains relations with non-governmental organizations (NGOs) concerned with human rights and receives complaints from victims of violations of human rights, which it passes on to the competent administrative or judicial authorities.

28. The Royal Government has also established the Office of the Secretary of State for Women's Affairs, which has been given responsibility for protecting and promoting women's rights. The Office receives complaints from women concerning violations of their rights, examines them and deals with those of lesser importance. In more serious cases, it passes the complaints on to the competent court.

29. At present, more than 30 NGOs in Cambodia are authorized to engage in activities related to the protection of human rights. These organizations also undertake to help people gain a better understanding of the law and greater awareness of their rights. They assist victims in filing complaints with the courts.

30. The Cambodia Office of the United Nations Centre for Human Rights has been authorized by the Royal Government to carry out activities relating to the protection of human rights in the country. It is organizing training courses on human rights for the competent authorities and helping to improve respect for those rights. In November 1993, the Secretary-General of the United Nations appointed a Special Representative for human rights in Cambodia to maintain contact with the Cambodian people and make recommendations to the Royal Government on the human rights situation in the Kingdom.

31. Other international organizations, such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO), World Vision International, the International Committee of the Red Cross (ICRC) and the European Union, also have offices in Cambodia and are actively participating in the protection of human rights. The United Nations Children's Fund (UNICEF) is especially active in protecting the rights of women and children to health and education.

Complaints from victims of human rights violations

32. Since 1982, the right of citizens to lodge protests or complaints concerning abuse of authority by the Government or its officials has been recognized by the law concerning the examination and settlement of public protests and complaints. Article 39 of the Constitution establishes the fundamental right of citizens to report, lodge complaints against and claim compensation for any injury caused as a result of breaches of the law by State or social agencies or by their officials in the course of their duties. The settlement of complaints and claims for compensation falls within the competence of the courts.

33. At present, victims may lodge complaints by any means, with NGOs or the National Assembly's Commission on Human Rights, the Royal Government, in particular the Ministry of Justice, or directly. Some even address their complaints to the King.

34. Anyone claiming to be a victim of an abuse of power by an administration may, in the first instance, appeal to the superior authority of the administration responsible. Administrations are empowered to put an immediate stop to any abuse and to take disciplinary action against the official concerned.

35. If the complainant is not satisfied, he may apply to the court with jurisdiction over administrative matters. Appeals concerning abuse of authority fall within the competence of a specialized division of the Court of Appeal.

36. Courts of all instances deal with allegations concerning violations of fundamental rights. The courts may take an administrative decision or make an enforcement order. If not satisfied with this decision, the plaintiff may appeal to the Court of Appeal and then seek a judicial review by the Supreme Court. In order to avoid unnecessary prolongation of the proceedings, the Supreme Court may rule simultaneously on points of fact and law and hand down a final judgement, at the petition of the representative of the Department of Public Prosecutions, the person convicted or the civil party claiming damages or his lawyer, if the lower court does not bow to its first ruling (art. 226 of the 1993 Criminal Procedure Law).

37. In order better to guarantee and protect human rights, the Kingdom of Cambodia will examine a proposal for accession to the Optional Protocol to the International Covenant on Civil and Political Rights which would enable the Human Rights Committee to receive and examine complaints from anyone in Cambodia claiming to be a victim of a violation of any of his rights under the Covenant, after that person has exhausted all available domestic remedies.

Claims for civil damages

38. Article 5 of the 1993 Criminal Procedure Law allows any victim of a criminal offence being examined by the Department of Public Prosecutions to bring an action for criminal indemnification.

39. Criminal indemnification proceedings may be instituted by all those who have directly suffered injury as a result of the offence against all those held directly or indirectly responsible for making good the injury caused by the offence, such as the perpetrator but also the party liable for damages, the principal, the administration, etc.

40. At present, as in many other countries, the possibilities of indemnification afforded by the law do not reflect the actual state of affairs.

41. Acts of violence being mainly the work of armed men, the victims do not dare file a complaint for fear of reprisals and, not being conversant with the law, they lack confidence in the authorities.

42. Human rights NGOs have therefore been playing an increasing part in receiving and forwarding complaints about human rights violations. They have also organized training sessions for groups of defenders concerned with criminal matters to work with those existing since 1983.

43. Notwithstanding enormous difficulties, the Ministry of Justice has made a stalwart effort to provide training and further training for judges, lawyers and court officers, despite the meagreness of its resources (0.2 per cent of the national budget):

- 132 serving judges followed intensive courses given by French judges during the fourth quarter of 1993;
- 42 new judges underwent training between September 1994 and February 1995;
- The Law Faculty inaugurated a training course for a first group of graduating lawyers in May 1995;
- A law on the establishment and functioning of the Supreme Council of Justice was passed by the National Assembly on 22 December 1994;
- The Ministry of Justice has organized frequent retraining or further training courses for the royal judges and prosecutors working in the provincial and municipal courts, on the basis of specific cases;
- A general assembly on the work of the courts is held each year;
- Numerous training and further training courses for registrars, chief registrars and bailiffs were organized in 1994;
- Workshops at Phnom Penh and seminars organized in certain provinces have helped to improve collaboration between the police and the Department of Public Prosecutions.

Relationship between the Covenant and Cambodian law

44. Article 31.1 of the Constitution stipulates that "the Kingdom of Cambodia shall recognize and respect human rights as defined in the Charter of the United Nations, the Universal Declaration of Human Rights and the covenants and conventions relating to human rights and the rights of women and children". Thus, all the rights defined in the International Covenants on Human Rights are protected by the Constitution of the Kingdom of Cambodia.

45. The Cambodian Constitution does not contain any provisions that are contrary to or impose restrictions upon fundamental human rights as defined in international human rights instruments. However, there are certain provisions which have been adopted in response to the country's circumstances and situation. Thus, article 31 states that "the exercise of personal rights and freedoms shall not adversely affect the rights and freedoms of others and shall be subject to the conditions established by law".

46. Article 31.1 of the Cambodian Constitution recognizes that the international covenants and conventions to which Cambodia has acceded take precedence over domestic law. Any provision of domestic law contrary to the provisions of an international convention or covenant is thus inapplicable.

47. The Kingdom of Cambodia has acceded to the following international conventions and covenants:

- International Covenant on Civil and Political Rights (26 May 1992);
- International Covenant on Economic, Social and Cultural Rights (26 May 1992);
- Convention on the Prevention and Punishment of the Crime of Genocide (14 October 1950);
- International Convention on the Elimination of All Forms of Racial Discrimination (28 November 1983);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (15 October 1992);
- Convention on the Elimination of All Forms of Discrimination against Women (15 October 1992);
- Convention on the Rights of the Child (15 October 1992);
- Convention on the Suppression and Punishment of the Crime of Apartheid (28 July 1981);
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (12 June 1957);
- Convention Relating to the Status of Refugees and the 1967 Protocol (15 October 1992).

(See annex: table of ratifications.)

Information and publicity

48. The competent Cambodian authorities have broadcast on radio and television human rights programmes addressing the problems facing Cambodian society, although these problems have not been treated in depth. The Office of the Secretary of State for Women's Affairs has compiled a training programme and organized seminars on fundamental rights, in particular on measures to prevent violence against women.

49. The Ministry of Justice has had the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights translated into Khmer and has sent copies to all the provincial and municipal courts. Moreover, at the proposal of the Ministry, other human rights instruments have

also been translated and distributed by the United Nations Centre for Human Rights to all court officials, civil servants and the armed forces in the provinces and municipalities. This programme commenced at the beginning of 1995.

50. Even though the Government has not yet become intensively engaged in publicizing human rights, the teaching of these rights has already been introduced into the curriculum of the Ministry of Education, Youth and Sports.

51. International organizations and national and international NGOs have actively encouraged respect for human rights by printing and distributing documents, posters and booklets throughout the country. Moreover, some organizations have arranged training courses on human rights for Cambodian civil servants and citizens.

52. An Inter-Ministerial Committee composed of representatives of 10 ministries and chaired by the Minister of Justice is responsible for preparing reports on human rights for the United Nations. This Committee has gathered documents from the ministries concerned, as well as other information, with the technical assistance of the Cambodia Office of the Centre for Human Rights.

II. INFORMATION RELATING TO ARTICLES 1-27 OF THE COVENANT

Article 1

Right of self-determination

Paragraph 1

53. Cambodia recognizes the right of self-determination of its people, as stipulated in article 1 of the Covenant. In Cambodia, citizens have the right of self-determination in the economic, social and cultural spheres; they are masters of their country's destiny. They exercised their right by choosing a political regime and their representatives in the elections held from 23 to 28 May 1993.

54. In accordance with the Constitution, the Kingdom of Cambodia has adopted a market-economy system. This principle is practised by all citizens throughout the Kingdom, in conformity with the policy declaration of the Royal Government of 29 October 1993.

55. Under articles 59 and 60 of the Constitution, Cambodian citizens have the right to dispose freely of their products and their country's natural resources, a right which is protected by the State. However, during the last few decades, the breakdown of the productive structure and export controls has encouraged the plundering of the country's natural resources, and has retarded the process of agricultural development: 45 per cent of rubber production brings in nothing for the State; in recent times tree felling and the illegal export of timber to neighbouring countries have devastated at least 30 per cent of the forests, to the detriment of the State, which receives nothing by way of foreign exchange from this illegal trade; almost all the tobacco crop has been sold clandestinely; the trade in precious stones at Païlin has recently suffered huge losses to the advantage of the

Thai companies to which the Khmer Rouge have sold the minerals under their protection; fishermen from neighbouring countries have engaged in clandestine fishing in Cambodian waters, destroying the shelters and disturbing the breeding of the fish during the period when fishing is prohibited; the ownership of Cambodia's oil fields is being disputed by neighbouring countries.

56. One positive factor contributing to the rebuilding and development of the national economy is the return of the Kingdom of Cambodia to the Mekong Committee after it lost its membership status more than 20 years ago.

Paragraph 2

57. The Kingdom of Cambodia recognizes and respects the right of self-determination of the peoples of all countries in the world. In its external relations, the Kingdom of Cambodia adopts a policy of permanent neutrality, non-alignment and peaceful coexistence (art. 53 of the Constitution).

58. As regards non-observance of the right of self-determination and racism, the position of the Kingdom of Cambodia is as follows. Concerning the Palestinian problem, the Kingdom of Cambodia welcomes the resolution of the conflict between Israel and Palestine, and has established diplomatic relations with both Palestine and Israel. With respect to apartheid in South Africa, the Kingdom of Cambodia welcomes the final abolition of apartheid in that country and the birth of a unified and democratic society. The Royal Government of Cambodia demonstrated its desire for solidarity with the South African people by sending a delegation to observe the presidential elections in South Africa during the period from 26 to 28 April 1994. His Majesty Preah Bat Samdech Preah Norodom Sihanouk Varman, King of Cambodia, has agreed in principle to the establishment of diplomatic relations between the Kingdom of Cambodia and the Republic of South Africa.

Article 2

Recognition of the rights of the individual without discrimination

Paragraph 1

59. The Kingdom of Cambodia recognizes and respects the dignity of individuals without distinction of any kind. Article 31 of the Constitution states that citizens are equal before the law and have the same rights and duties without distinction as to race, colour, sex, language, religious belief, political views, ethnic origin, social status, wealth or other circumstances. In accordance with article 2 of the International Covenant on Civil and Political Rights, the Kingdom of Cambodia undertakes to respect and ensure to every individual all the rights recognized in the Covenant (arts. 31, 32 and 38 of the Constitution).

60. In the field of politics, Cambodian citizens enjoy the right to vote and to stand as candidates for election and the right to establish political parties (arts. 34 and 42 of the Constitution). Between 23 and 28 May 1993,

90 per cent of Cambodian citizens of both sexes participated in the parliamentary elections, which were contested by 20 political parties.

61. The women citizens of Cambodia also enjoy full political rights. Among the 120 deputies there are seven women. The limited participation of women in politics is not the result of discrimination. It is mainly due to the fact that women have traditionally taken little interest in politics.

62. In the area of civil rights, the Kingdom of Cambodia respects the civil rights of all individuals as defined in the Covenant, without distinction of any kind. However, because of the war, which is still continuing, the low level of education of the population and the legal vacuum, the application of these rights is encountering numerous difficulties. Nevertheless, there are many very encouraging signs. The Royal Government is working to develop the legal system, public order, respect for the law and security in order that Cambodia may soon become a country in which the rule of law prevails.

63. Economic, social and cultural rights are recognized for citizens without distinction. Articles 35 and 36 of the Constitution fully guarantee these rights. Details concerning these three areas are given in the report on economic, social and cultural rights.

Paragraph 2

64. The Royal Government is eager to ensure that the laws conform to the Constitution promulgated on 24 September 1993. The Constitutional Council is not for the time being in place because of the absence of candidates to represent the Supreme Council of Justice, which is not currently functioning, the bill on the status of judges not yet having been passed by the National Assembly.

65. Since the promulgation of the Constitution on 24 September 1993, numerous laws relating to civil and political rights have been adopted by the National Assembly:

Constitution (21 September 1993);

Assistance regime: missions, sickness, persons convicted or charged (15 November 1993);

Financial system (22 December 1993);

Powers and structure of the Royal Gendarmerie (15 February 1994);

Youth rehabilitation (18 April 1994);

Urbanization (24 May 1994);

Outlawing of the Democratic Kampuchea group (7 July 1994);

Organization and functioning of the Cabinet of Ministers (19 July 1994);

Investment (4 August 1994);

Immigration (26 August 1994);

Common statute for civil servants (21 October 1994);

Military pensions and incapacity regime (28 October 1994);

Functioning of the Supreme Council of Justice (22 December 1994);

Law on the status of lawyers (15 June 1995);

Budget of the National Assembly (28 December 1994);

Press regime (15 June 1995);

Chamber of Commerce (22 June 1995);

Trade measures (26 June 1995);

Administration and use of arms and explosives (31 July 1995);

Law on kidnapping and on traffic in and exploitation of persons;

Labour Code;

Law on nationality (20 August 1996).

66. At the same time, a number of laws have remained in force under article 139 of the Constitution, which states: "Any law or provision which guarantees the legitimate interests, rights, liberty and goods of individuals and is consistent with the national interest shall continue in force until amended or abrogated by new texts, except for those provisions that are contrary to the spirit of the Constitution." (Enactment on the judicial system, criminal law and criminal procedure of the transitional period.)

67. New laws at the drafting stage include: the Criminal Code, the Code of Criminal Procedure, the Civil Code, the Code of Civil Procedure, a law on combating the production and use of drugs and drug trafficking, and the Women's Code.

Paragraph 3

68. If there has been a violation of rights and freedoms, whatever the source, the State guarantees the victim the right to institute legal proceedings. The National Assembly's Commission on Human Rights and Complaints, as well as NGOs, may intercede with the various authorities or assist the victim in having his case decided by the courts.

69. The complaints are dealt with by the courts, which have jurisdiction over all actions, including administrative litigation (arts. 39 and 109 of the Constitution).

70. Victims often encounter difficulties in exercising their right to seek legal remedies, in particular because of their limited knowledge of the law

and the slowness of the proceedings, not to mention the time wasted because the complaint is sometimes addressed to an authority which lacks competence and then has to be transferred to the competent body. There is only one court in the provincial capital, which is not easily accessible for every victim. There are not enough judges to deal with the increasingly numerous and complicated cases. Inter-agency collaboration is not yet effective.

71. To overcome these difficulties, the Ministry of Justice has organized a training course for 42 new judges, together with another course of training; a bar consisting of 38 lawyers has been created, and further training courses are being provided for judges, royal prosecutors and court registrars at every level.

72. The National Assembly has passed a law on the establishment and functioning of the Supreme Council of Justice. The Royal Government has authorized NGOs to publicize the law and the rights of citizens and to provide defenders for the poor.

Article 3

Equal rights of men and women

73. The Constitution of the Kingdom of Cambodia guarantees the equality of men and women, fully entitling women to take an active part in social life. This constitutional principle is a step towards the complete abolition of discrimination against women and enables them to enjoy to the full the same rights as men in political, economic, social and cultural life.

74. The Constitution of the Kingdom of Cambodia guarantees the equality of men and women in the enjoyment of civil and political rights:

- Equality before the law (art. 31);
- Equal right to vote and to stand as candidates for elections (art. 34);
- Equal participation in political and social life (art. 35);
- Equality in marriage and the family (art. 45);
- Dismissal of pregnant women is prohibited. Women have the right to take maternity leave with full pay (art. 46).

75. In order to safeguard the right to equality, the Constitution has also abolished all practices demeaning to women:

- Prohibition of discrimination and exploitation of the labour of women;
- Prohibition of trafficking in human beings and exploitation by means of prostitution and obscenities demeaning to women (art. 46).

76. Women are also protected in the workplace (arts. 178-182 of the Labour Code).

77. The law guarantees women the freedom to choose their husband (art. 4 of the Law on Marriage and the Family).

78. Women must be accommodated separately from men in detention centres and prisons.

79. By law, women enjoy preferential access to the civil service (art. 11 of the Law on the Common Statute for Civil Servants).

80. The Constitution of 1993 proclaims the equality of men and women in all areas, and specifically in the workplace:

- Of the 120 deputies in the National Assembly, seven are female;
- There are five female Under-Secretaries of State;
- There are seven female judges;
- There are nine female lawyers and defenders.

81. In other respects, too, women enjoy a range of opportunities to participate in the development of the country. In agriculture, 60 per cent of the workforce is female. In industry, 76 per cent of workers are women. In education the figure is 83 per cent; 32.5 per cent of teachers are women in primary schools, 25 per cent in secondary schools (first stage) and 25.5 per cent in secondary schools (second stage). In the services sector, 58.9 per cent of the workforce is female. There are 685 female police officers.

82. The destructive war of the last 20 years has plunged Cambodian society into a deep economic crisis and created very serious problems for families all over the country. The majority of girls from poor families have been unable to receive any training and have had to discontinue their studies at the primary-school level. Up to 50 per cent of women are illiterate, and only 19 per cent of students at university faculties are female.

83. The present situation and Cambodian social customs are additional factors which prevent women from continuing their studies. In the countryside, there is a shortage of higher-level schools and most parents do not allow their children to stray too far from home.

84. In the past, a number of female prisoners used to be raped by prison warders. Since the general election, the Royal Government has ensured that women are segregated from men and that they are guarded by female warders in most prisons.

85. The abduction of girls for the purposes of prostitution or trafficking is a growing problem and the Royal Government is addressing the matter (see paragraphs 146-151 regarding article 8 of the Covenant).

86. The right to life in Cambodia is currently threatened by the ravages of AIDS, which is spreading very rapidly and is transmitted through sexual relations with prostitutes. The AIDS problem has increased since 1992 and the Ministry of Health estimates that 6,000 people are currently HIV-positive.

87. In order to ensure the equality of men and women in all respects, the Royal Government established the Office of the Secretary of State for Women's Affairs in November 1993. Its role is to educate women about their legitimate rights, thereby enabling them to achieve true equality with men and to facilitate their involvement in efforts to improve their lives and their vocational, technical and scientific skills, and permit them to exercise fully their acknowledged rights.

88. With the assistance and support of the Office of the Secretary of State for Women's Affairs, a dozen NGOs run by women have played an active role in the advancement of women in Cambodia's new society. The Office has also prepared a draft Women's Code for referral to the National Assembly. This is a legal mechanism for guaranteeing and fully protecting women's rights in all areas.

Article 4

Rights during a state of emergency

Paragraph 1

89. When the nation is in danger, the Cambodian Constitution authorizes the King to proclaim a state of emergency with the consent of the Prime Minister and the President of the National Assembly (art. 22). Even when the nation is in danger, Cambodia continues to apply democratic principles (art. 22).

90. Even during a period of martial law, Cambodia will not take measures that are contrary to international law.

91. In time of war or other exceptional circumstances, when it is impossible to hold elections, the National Assembly may extend its term for one year at the King's request (art. 78, para. 5, of the Constitution). The National Assembly shall sit continuously when the nation is in danger. The Assembly has the right to terminate the state of emergency when circumstances permit. If the Assembly is unable to sit owing to circumstances such as occupation by foreign armed forces, the proclamation of the state of emergency shall be extended automatically. During a state of emergency, the Assembly cannot be dissolved (art. 86).

92. The King is supreme commander of the Royal Khmer Armed Forces. He is the Chairman of the Supreme Council of National Defence. He may declare war with the approval of the National Assembly (arts. 23 and 24).

Paragraph 2

93. The Kingdom of Cambodia will continue in all circumstances to apply articles 6, 7, 8, paras. 1 and 2, 11, 15, 16 and 18 of the Covenant and to recognize and respect human rights as guaranteed by article 31 of the Constitution.

94. Since its accession to the Covenant, Cambodia has refrained from taking any new measures contrary to the provisions of article 4 thereof.

95. The Khmer Rouge, a signatory to the Paris Agreements of 23 October 1991, has not demobilized, confined or disarmed its troops under the supervision of United Nations representatives. They have kept their weapons and prolonged the war, by continuing to cause destruction and posing a threat to security. They are also continuing to murder civilians and officials, to wage a campaign of insurgency against the Royal Government and to pursue a policy of racism. These acts violate the provisions of the Covenant and represent a very grave danger to the nation. However, even under these circumstances, the Royal Government, the National Assembly and the King have never proclaimed a state of emergency and have not taken advantage of the situation to adopt new measures that would contravene the provisions of the Covenant. The Law on the Outlawing of the Democratic Kampuchea Group, which was adopted by the National Assembly on 7 July 1994, expressly prohibits any violation of civil rights.

Paragraph 3

96. To date, it has not been necessary to apply article 4 of the Covenant. Although the Constitution does not make express provision for the implementation of article 4, by the same token it contains nothing that would prevent its application. In any event, the Secretary-General of the United Nations would be informed of the proclamation of a state of emergency.

Article 5

Exercise of rights under the Covenant

Paragraph 1

97. The Cambodian Government has never interpreted the Covenant in such a way as to violate the rights and freedoms embodied therein, nor has it applied its provisions in a more restrictive or rigid fashion than that laid down by the Covenant itself. Article 31 of the Constitution states that the Kingdom of Cambodia recognizes and respects human rights as defined in the Charter of the United Nations, the Universal Declaration of Human Rights, and the covenants and conventions relating to human rights. Thus, no law or regulation must conflict with the provisions of the Covenant.

98. All laws and regulations must be submitted to the Constitutional Council for examination of their constitutionality prior to their promulgation (art. 121). Even if a law has already entered into force, the Constitutional Council may always exercise its supervisory role and rule on its constitutionality (art. 122). Any provision that is ruled unconstitutional will not be promulgated or implemented (art. 123)

99. At the present time, in view of the fact that the Constitutional Council has not yet been established, the constitutionality of all existing laws passed by the National Assembly has still to be examined by the Council.

Paragraph 2

100. There are no restrictions or limitations on the fundamental rights recognized by the Cambodian Constitution, even when those rights are not mentioned in the Covenant. For example, article 47, paragraph 2, of the Constitution stipulates that children have the duty to feed and care for their elderly parents in accordance with Cambodian traditions.

101. The Law on the Outlawing of the Democratic Kampuchea Group, which was passed by the National Assembly on 7 July 1994, is a special law which satisfies the popular desire for peace and for an end to genocide. It applies only to a group of Cambodians who are resisting the popular will (art. 2 of the Law) and contains no provision harming or restricting citizens' rights and freedoms (art. 9). Furthermore, it has not exceeded the limitations allowed by the Covenant. It is in keeping with the circumstances and the situation in Cambodia.

Article 6

Right to life

Paragraph 1

102. The right to life set forth in article 6, paragraph 1, of the Covenant is embodied in article 32 of the Constitution, which states that "every person shall have the right to life, liberty and security of person". This provision concerning the "right to life" applies to all persons without distinction. The Kingdom of Cambodia therefore guarantees and protects the right to life of all persons in its territory.

103. The death penalty has been abolished, a fact which demonstrates that Cambodia considers the right to life to be a basic right of every human being.

104. Cambodia believes that war is one of the major causes of the destruction of human life. In order to protect the lives of its citizens and spare them the devastation of war, the Royal Government has twice agreed to participate in round-table conferences with the Khmer Rouge, requesting them in the meantime to declare a ceasefire in order to settle the domestic situation and re-establish peace. But these efforts have not produced any satisfactory results. In its relations with foreign States, Cambodia has adopted a policy of permanent neutrality, non-alignment and settlement of conflicts by peaceful means (art. 53 of the Constitution).

105. The Democratic Kampuchea group has failed to abide by the Paris Agreements of 23 October 1991 and is continuing to wage a relentless war of devastation and to massacre innocent civilians. The Royal Government has made every effort to prevent acts of aggression by the insurgents and to safeguard and protect the lives of civilians. The National Assembly passed a Law on the

Outlawing of the Democratic Kampuchea Group with a view to ending the war and punishing the insurgents who continue to commit crimes against the population.

106. To protect life, Cambodia has prohibited the manufacture, use and stockpiling of modern weapons of mass destruction (art. 54 of the Constitution).

107. Cambodian people are currently being killed, wounded and maimed by landmines. These are dangerous weapons which threaten human life indiscriminately. The number of landmines in Cambodian territory is estimated at between 8 and 10 million, according to the Royal Government's statement of 15 March 1995. As of 1994, approximately 40,000 people had been killed or maimed. Landmines claim a further 300 victims every month. The number of deaths is about the same as the number of injured (statement by Engineer Mouly, Director of the Cambodian Mine Action Centre (CMAC)).

108. Apart from the cost in terms of human lives, landmines in Cambodia inhibit current and future economic development. The Royal Government has set up a demining centre to deal with this problem. On 1 November 1993 the King signed a kret (decree) appointing the Chairman of the CMAC governing board. Another kret of 25 February 1995 established the Centre itself. Between the end of 1992 and the end of 1994, the centre was instrumental in clearing 32,923 anti-personnel mines, 209 anti-tank mines, and 251,292 unexploded munitions (CMAC report, October 1994).

109. The Royal Government issued a statement outlining its position on the landmine issue (see annex) at the meeting of government experts to prepare the Review Conference of the States Parties to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, with special emphasis on landmines, which was held in Geneva from 8 to 19 August 1994. An NGO conference on banning landmines was held in Phnom Phen on 3-4 June 1995.

110. The Ministry of National Defence has ordered Cambodian military personnel to discontinue the use of landmines in the war against the Khmer Rouge insurgents. The Government is currently drafting a bill prohibiting the manufacture, use, stockpiling and importation of mines into Cambodian territory.

111. Cambodia regards the right to life as a supreme right that guarantees every individual the hope of developing harmoniously, prosperously and healthily from cradle to grave. Article 38 of the Constitution makes provision for the protection of the life, honour and dignity of citizens. Article 53 states that Cambodia follows a policy of peaceful coexistence with its neighbours and with all other countries throughout the world. Articles 72, 73 and 74 require the State to protect public health, paying particular attention to the needs of poor citizens, women, children and the disabled.

112. The methods and measures which have been adopted in the economic, social and cultural fields are covered in detail in the report on economic, social and cultural rights which will be submitted at a later date. The current life expectancy of the Cambodian population is below 50 years.

113. Despite numerous guarantees designed to make life more secure, it is impossible to eliminate infant mortality entirely. With regard to abortion as a violation of the right to life, the Royal Government is drafting a bill which stipulates the circumstances in which abortions may be performed and the power of the hospitals in this matter.

114. A person who has committed crimes that violate the right to life, or who disseminates propaganda and engages in subversion designed to provoke war, is liable to incur penalties as stipulated by the provisions of criminal law and criminal procedure applicable in Cambodia during the transitional period (articles 31, 32, 40, 53, 54 and 67).

115. Following the Paris Agreements, the uncontrolled use of weapons posed a threat to human life. In order to eliminate this problem, the Royal Government has specified those persons entitled to possess and use firearms, including rifles, and explosives in order to maintain public order and ensure their personal safety in the performance of their duties; such persons include police officers, personnel of the armed forces, and certain officials and civilians (letter No. 088 of 3 September 1993 issued by the Ministry of the Interior and Security).

116. Any person who illegally possesses or transports firearms, explosives, or any weapon of war, will be punished according to the law (art. 54 of the Transitional Criminal Law). Two kinds of licences may be obtained: a licence to possess and carry a weapon, and a licence to possess a weapon but not to carry it. The latter permits the bearer to keep a weapon in his house but not to take it outside.

117. Victims of acts endangering their lives may claim damages proportionate to the harm suffered (art. 39 of the Constitution, art. 9 of the 1993 Criminal Procedure Law and art. 27 of the Transitional Criminal Law).

118. The Royal Government is proceeding to confiscate weapons from all persons who do not hold a licence. An appeal has been launched to persuade people to apply for licences to possess and carry weapons; stop and search procedures have been instituted, and searches of domestic premises have been conducted; persons possessing and using weapons without a licence have been brought to trial. However, none of these measures has proved entirely satisfactory. Large numbers of people continue to evade the crackdown and use their weapons illegally.

119. No person may be unlawfully detained in Cambodia (art. 38 of the Constitution, art. 12 of the Transitional Criminal Law), and the Royal Government intends to take measures to eliminate arbitrary imprisonment (see paras. 152-168 concerning art. 9 of the Covenant).

120. Notwithstanding protection measures, the right to life is still under threat. For example, 17 soldiers of the Khmer People's National Liberation Front (KPNLF) were murdered by the Khmer Rouge on 23 September 1993 at Pursat. In April 1994, 18 of the Royal Government's police officers were intercepted by the Khmer Rouge while in transit from Battambang to Pailin. They have not been heard from since. It is presumed that they were murdered by the Khmer Rouge. In October 1994, the Khmer Rouge murdered 50 inhabitants of

Battambang. On 17 November 1994, the Khmer Rouge abducted 71 civilians, including seven women, in Bavel district, Battambang Province, while they were cutting bamboo in the forest. Armed gangs have also threatened judges (see para. 205 below for further details). On 8 December 1994, a journalist was murdered at Kampong Cham, and there has been a spate of robberies in which victims have subsequently been murdered.

121. The Royal Government has launched an in-depth investigation into these crimes, but with little result because, on the one hand, the perpetrators are protected members of the armed forces who do not hesitate to resort to violence to prevent investigations and, on the other hand, because Cambodian investigators lack experience. On one occasion, soldiers surrounded the residence of the public prosecutor and the courthouse in an attempt to kill both him and the judges. Another incident in Battambang involved a group of soldiers commanded by a general who surrounded the prison and fired on the warders in a bid to free the inmates. Police officers and an examining magistrate in Kampong Cham failed to arrest the suspected murderer of an individual on the staff of the newspaper Koh Santepheap (Island of Peace).

Paragraphs 2, 4, 5 and 6

122. The death penalty has been abolished in Cambodia (art. 32, para. 2, of the 1993 Constitution).

123. Since 1993 Cambodian courts have not passed a death sentence, even on individuals who have committed the most heinous crimes. The maximum sentence that the law allows is 20 years' imprisonment (art. 31 of the Transitional Criminal Law).

Paragraph 3

124. Cambodia abides by the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide, to which it acceded on 14 August 1950.

Article 7

Prohibition of torture and cruel, inhuman or degrading treatment or punishment

125. Cambodia is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

126. The Cambodian Constitution prohibits physical abuse (art. 38). The provisions relating to the judicial system, criminal law and criminal procedure applicable in Cambodia during the transitional period clearly state that detainees must be protected against torture and cruel, inhuman or degrading treatment (art. 12).

127. The Ministry of Justice has instructed the public prosecutors attached to provincial or municipal courts to visit detention centres and prisons twice a month (or at least once a month when they have a heavy workload). Public

officials, police officers and military personnel who physically abuse individuals are liable to a penalty of five years' imprisonment (art. 57 of the Transitional Criminal Law).

128. Confessions obtained from detainees by torture or physical or mental duress do not constitute evidence of guilt (art. 38 of the Constitution). Some defendants have retracted their confessions at trial, explaining that they had confessed only because the police had threatened to torture them. Even if the public prosecutor can find no evidence to support this claim, he is under no obligation to believe the confessions obtained by the police. In certain cases, the Phnom Penh court has rejected a confession made to the police in the interests of securing justice for the victim. In accordance with article 38 of the Constitution, the draft new criminal law stipulates that any confession obtained under duress, whether physical or mental, is inadmissible as evidence.

129. In the case of physical abuse or improper application of the law by State bodies, social organizations or their employees, aggrieved persons may lodge a complaint with courts at all levels: courts of first instance, the Court of Appeal and the Supreme Court (arts. 2 and 5 of the Criminal Procedure Law).

130. Victims may claim compensation for wrongs and damages from persons who commit or participate or conspire in wrongful acts (art. 39 of the Constitution and art. 27 of the Transitional Criminal Law).

131. In order to safeguard the lives, honour and dignity of the people, article 38, paragraphs 3 and 4, of the Constitution stipulates that the investigation, arrest, custody and detention of any person must proceed in accordance with the law. Coercion, physical abuse or any other mistreatment that imposes additional punishment on a detainee or prisoner is prohibited. Persons who commit or participate or conspire in such acts will be punished in accordance with the law. The Transitional Criminal Law (art. 57), Decree-Law No. 27 and the Criminal Procedure Law lay down the penalties for such violations.

132. The Royal Government has prohibited all forms of secret detention. All persons in detention or custody whose names do not appear in the prison register are regarded as being arbitrarily detained and must be released immediately on the orders of the public prosecutor (art. 16 of the Transitional Criminal Law). Any person who resorts to arbitrary imprisonment "without the warrant of the court" is liable to punishment (art. 35 of the Transitional Criminal Law).

133. In order to avoid any case of arbitrary detention which could give rise to torture, officers of the criminal investigation service must bring accused persons before the competent magistrates within 48 hours at most (arts. 38-47 of the Criminal Procedure Law and art. 13, para. 1, of the Transitional Criminal Law).

134. The location and designation of places of custody and prisons in Cambodia are officially determined. Every place of custody and every prison keeps a register of the names, ages and addresses of the persons detained

therein, in addition to the date of and reason for their arrest. In the case of detained persons, the register also indicates the date on which they were brought before a magistrate; in the case of convicted persons, it includes the date of conviction and the nature of the sentence (art. 8 of the Transitional Criminal Law).

135. When the procedure has been violated, a defendant is entitled to request the judge, either directly or through his counsel, to order his release. The judge is obliged to reply by way of a reasoned decision within five days (art. 14). If the error constitutes a serious breach of the right of defence, the defendant must be released immediately (art. 22 of the Transitional Criminal Law).

136. The public prosecutor, the judge, a doctor and counsel for the defence are all authorized to visit places of detention and to inspect conditions of detention at any time (art. 9 of the Transitional Criminal Law). Some doctors have been designated by the Ministry of Health to check the medical condition of detained or imprisoned persons twice a week.

137. In 1995 there were few cases of physical abuse during interrogations. The royal prosecutors attached to provincial and municipal courts monitor such abuse closely. As of 1996, the Ministry of Justice decided to assume responsibility for the administration of detention centres and prisons. A draft decree-law on this matter has been submitted for the approval of the Council of Ministers.

138. In 1994 it was reported that there was a secret prison at Vat Chhoeu Khmao in Battambang province, where people had been arrested, detained, tortured and killed. Upon receiving this information, the Royal Government ordered an urgent inquiry. On 10 June 1994 the military prosecutor visited the site and confirmed the existence of the secret prison and cases of arbitrary detention at Chhoeu Khmao and Vat Paccha (report No. 229/94 of the Military Prosecutor's Office, dated 11 July 1994).

139. The Ministry of National Defence ordered the Chief of the General Staff to close down the two detention centres and requested the prosecutor of the military court to prepare an indictment against the individuals concerned. At the same time, the Government set up an inter-ministerial commission of inquiry. Following successive inquiries, the commission found that there was no longer any trace of the prison and no further cases of illegal custody had been reported.

140. On 5 February 1995 in Battambang, two inhabitants of Maung Russey were arrested and shot dead by military personnel who had accused them of belonging to the Khmer Rouge. The examining magistrate ordered warrants to be issued for the detention of two suspects, a police officer and a member of the armed forces. However, the two suspects were released shortly afterwards when a dismissal order was issued in their favour on the basis of lack of evidence. On 15 August 1995 the Battambang court handed down a default judgement convicting three fugitives of the crime of homicide.

141. In order to make the prohibition of torture and other barbaric acts more effective, the Ministry of Justice, the Ministry of the Interior and the

Ministry of Health issued a joint order on 7 July 1993 prohibiting the use of handcuffs and chains in all detention centres and prisons in Cambodia.

142. The Royal Government, in cooperation with the United Nations Centre for Human Rights, is continuing to organize human rights training for police officers, military personnel, judges, prosecutors and administrative staff of prisons and detention centres. In addition, a number of NGOs have participated in the organization of similar courses for Cambodian citizens in rural and urban areas.

143. The Royal Government has improved conditions in prisons and detention centres, eliminating the dark cells. Relatives, friends, the prosecutor, the accused's lawyer or defender, and a doctor may visit prisoners and inspect prisons and detention centres.

144. Prisoners are entitled to lodge complaints or accusations against any official who carries out acts of torture on their person. Those responsible will be punished in accordance with article 57 of the Transitional Criminal Law and victims have the right to claim damages in accordance with article 5 of the Criminal Procedure Law.

145. No person in Cambodia is subjected to medical or scientific experimentation without his consent.

Article 8

Prohibition of slavery, the slave trade and institutions and practices similar to slavery

Paragraph 1

146. The Kingdom of Cambodia acceded to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery on 12 June 1957. In line with this Convention, the Cambodian Constitution recognizes and respects the rights of every individual regardless of race, colour, sex, language or religious belief, and prohibits all forms of physical abuse and violations of human honour and dignity (arts. 31 and 38, paras. 1-4).

147. Anyone who violates the provisions listed above is punishable by law. Slavery was definitively abolished in Cambodia in 1955. However, during the Democratic Kampuchea regime from 1975, citizens were enslaved, forced to transport weapons and munitions and made to perform many and various forms of hard labour.

Paragraph 2

148. Under articles 45, 46 and 48 of the Cambodian Constitution, no one may be held in servitude or be subjected to any form of exploitation. The exploitation of women through their work or by means of prostitution, and the exploitation of child labour and the labour of other persons is prohibited.

149. The Transitional Criminal Law also imposes a heavy penalty on anyone who has procured or abducted a minor for the purposes of prostitution or has exploited the use of children in prostitution, even with their consent (art. 42).

150. Notwithstanding this legal interdiction, increasing numbers of women have been abducted for the purposes of trafficking and underground prostitution. In 1994 an unregistered company procured 11 Cambodians and subsequently sold them in Malaysia, either for domestic service or for prostitution. On 16 January 1996, the National Assembly passed a law on the procurement of persons for sale or prostitution, which prescribes a penalty of between 5 and 15 years' imprisonment for persons who commit such a crime. If the victim is a minor under 15 years of age, the sentence increases to 20 years.

Paragraph 3

151. Cambodia ratified the International Labour Organization (ILO) Convention concerning the Abolition of Forced Labour on 24 February 1969 and a detailed report on the implementation of that Convention is being prepared by the Ministry for Social Welfare. This report will be submitted to ILO in the near future. In accordance with article 8, paragraph 3, of the Covenant, the Constitution stipulates that Cambodian citizens of either sex shall have the right to choose any profession according to their ability and the needs of society (art. 36). Labour law prohibits the employment of children. Owing to poverty, however, a number of families have urged their children to start earning a living at a very early age.

Article 9

Liberty and security of person

Paragraph 1

152. Although the Constitution guarantees and provides solely for the protection of the rights and freedoms of Cambodian citizens, in practice the relevant State organs and especially the courts respect the rights and freedoms of all persons in Cambodian territory. The individual's right to liberty and security of person is protected and guaranteed by article 32 of the 1993 Constitution, which states that "every person shall have the right to life, liberty and security of person. No one may be arrested or detained arbitrarily". This right is guaranteed by the Transitional Criminal Law.

153. Article 12 of the Transitional Criminal Law lays down the conditions governing arrest and detention in accordance with the principles established by the United Nations. Article 13 stipulates that detention must be sought by the prosecutor and ordered by a judge after a period of 48 hours. Article 15 states that the administrative police are not entitled to detain individuals, and there is no authorization for arresting individuals in connection with offences not provided for by law. Article 19 specifies the conditions for the arrest of suspects. Article 22 states that, where an arrest has been made in breach of the proper procedure, the individual concerned must be released.

154. The Criminal Procedure Law stipulates that a suspect may be arrested only on the basis of an arrest or detention warrant (art. 35); officers of the criminal investigation service have the right to arrest individuals thought to be guilty of an offence (art. 47); officers of the criminal investigation service do not have the right to decide that the file concerning a criminal case should be closed (art. 48).

155. The law protects and safeguards rights in accordance with the provisions of article 9, paragraph 1, of the Covenant, but in practice law-enforcement officials do commit violations, such as arresting suspects without a warrant issued by the prosecutor or the examining magistrate, and detaining suspects for longer than the six-month period established by law. In March 1994, for example, the police arrested a clerk in Kratie without the authority or warrant of the court; in Svay Rieng, in December 1994, the provincial governor ordered the release of a gendarme who had been arrested following the issuance of a judicial warrant; at Siemreap in March 1995 a parliamentary deputy and the deputy provincial governor ordered the release of a suspect who had been arrested following the issuance of a judicial warrant.

156. The most serious infringements of personal liberty and security are committed by the armed forces of the Khmer Rouge, who rob, plunder and murder innocent civilians and destroy their homes and possessions. People who live in areas under Khmer Rouge control lack the means to protect their personal liberty and security. The only law known to the Khmer Rouge is the gun. Those who are thought to be guilty are shot dead without any form of trial.

157. Abuses of the provisions of article 9, paragraph 1, of the Covenant are inevitable considering the wide range of problems which the country faces. Nevertheless, the Royal Government has not remained inactive. It is endeavouring to take appropriate measures to ensure that the provisions of the Covenant are gradually implemented under better conditions.

158. The Royal Government is currently taking the following measures. The Ministry of Justice is drafting a new Criminal Code and Code of Criminal Procedure, both of which will provide for the elimination of all forms of arbitrary detention; pursuant to a proposal put forward by the Ministry of Justice, the Royal Government has authorized judicial proceedings to be instituted against officials of all ranks for abuses of power and breaches of the law (letter 351 of 6 March 1995).

159. With reference to the Law on the Outlawing of the Democratic Kampuchea Group, any member of the Khmer Rouge who is arrested or gives himself up after the specified grace period, and who committed a crime prior to the date of his arrest or surrender, must be punished under the criminal law in force.

Paragraph 2

160. Respect for the right of liberty and security of person is demonstrated by the fact that, since 1994, anyone placed under arrest is to be informed immediately of the charges against him and his rights, in particular his right to have a lawyer present. In 1994-1995, the Ministry of Justice trained 33 lawyers, in addition to the 70 defenders already practising. Another training

course for 45 new lawyers began in February 1996. Since 1995 there have been fewer cases of persons being arrested or detained without approval from the prosecutor or the examining magistrate.

Paragraph 3

161. Anyone held in police custody or arrested in connection with an offence must be brought before the prosecutor or examining magistrate within 48 hours. Upon a referral from the prosecutor, the examining magistrate may either remand the person in custody or release him on bail (art. 13 of the Transitional Criminal Law), and in either case he must cite the reasons for his decision. Anyone charged with an offence who has been arrested or detained must be tried within six months therefrom (art. 21 of the Transitional Criminal Law).

162. The detainee may, either through his counsel or personally, request that he be released on bail pending trial. The judge must rule on the matter within five days (art. 14 of the Transitional Criminal Law). The judge must cite the reasons for his decision either to refuse or to grant conditional or unconditional release on bail. Regarding the payment of bail to secure release pending trial, article 65 of the Criminal Procedure Law states that "if the judge believes that the detainee may be released with or without the payment of bail, he shall decide this matter before considering the substance of the case. He shall act in the same way if the detainee makes a specific request to be released on bail".

163. The three principles referred to above are enforceable throughout Cambodia. In practice, however, the following shortcomings are to be noted:

(a) Generally speaking, the principle that every detainee must be brought before the prosecutor within 48 hours is observed. In certain areas, however, this time limit is not rigorously adhered to by the police, who still deliberately keep accused persons in detention for more than 48 hours in order to pursue their inquiries before referring the case file and the detainee to the prosecutor;

(b) The obligation to try a person without undue delay, i.e. within six months of the date of arrest, is likewise observed. In practice, however, some remand prisoners are detained for longer than six months without trial. Statistics show that in November 1994 the Ministry of Justice identified 85 such cases out of a total of 670 persons charged. These shortcomings may be attributed to various causes: the increase in the case load, staff shortages, a lack of qualified members of the judiciary, and limited resources. The inquiries and investigations carried out by duly empowered officers are not yet at a very advanced level, preventing them from keeping within the time limits. Lack of funds and modern investigative tools are additional problems;

(c) Release on bail pending trial raises serious practical problems because it is by no means certain that defendants will appear for trial, and having to rearrest them would pose even greater problems.

164. One of the measures instituted by the Royal Government is the monthly visit to prisons by representatives of the Ministry of Justice. When these

representatives uncover cases of detention exceeding six months, they request the court to be convened urgently to try them. The extent of the problem caused by failure to observe the time limit for pre-trial detention has greatly diminished. For example, in Phnom Penh in August 1994, 41 out of a total of 216 defendants were held in detention for longer than six months; by November 1994, that figure had fallen to just 13. The Ministry of Justice is currently training 42 additional judges for provincial and municipal courts.

Paragraph 4

165. There is no provision in Cambodian legal procedure which specifically states that persons in custody or under arrest have the right to request a court to examine and rule on the lawfulness of their detention. Article 14, paragraph 2, of the Transitional Criminal Law merely provides that "the accused has the right to ask the judge, either directly or through his counsel, to release him. The judge must respond within five days in the form of a reasoned order".

166. When the police arrest a suspect and bring him before the prosecutor immediately, the latter must order the detainee's immediate release if the charges and evidence lack substance. The release of defendants or suspects often creates friction between the police and the courts. The police criticize the courts for deliberately releasing individuals whom they have made every effort to arrest. This disaffection is the result of a limited understanding of legal matters and poor relations between the two institutions.

Paragraph 5

167. Under the Transitional Criminal Law, victims of arbitrary arrest or detention are entitled to seek compensation by bringing criminal indemnification proceedings (art. 35). At present, however, most victims are unfamiliar with the law and are simply glad to be released. As a result, they do not seek compensation.

168. The Ministry of Justice has drafted a criminal procedure bill which includes the right of victims of abuses to claim damages.

Article 10

Humane treatment of detainees

Paragraph 1

169. Articles 31 and 38 of the Constitution recognize and ensure respect for human rights and guarantee the physical integrity of the individual and the life, honour and dignity of every detainee or prisoner, who must not suffer any act of torture or inhuman treatment.

170. In accordance with article 38, paragraphs 1-4, of the Constitution, detainees and prisoners have the right to be treated decently and humanely. Their human dignity is accorded the same recognition as anyone else's. Paragraph 4 of this article stipulates that any coercion, physical abuse or

other treatment that imposes additional punishment on a detainee is strictly prohibited. Persons who commit or participate or conspire in such acts are to be punished according to the law. Article 9, paragraph 1, of the Transitional Criminal Law states that the prosecutor or the judge may visit detention centres and detainees at any time. Article 12, paragraph 1, of the Transitional Criminal Law provides that no detainee is to be subjected to cruel, inhuman or degrading treatment, nor is he to be beaten or tortured. All detainees must have access to appropriate medical care. Prisoners are not to be restrained using handcuffs or irons, nor must they be kept in solitary confinement in dark cells, either on remand or following conviction. Family members of detainees or prisoners are not to be threatened in any way on account of acts committed by the detainee or prisoner.

171. With regard to the custody of detainees, the Ministry of Justice, the Ministry of the Interior and Security and the Ministry of Health issued a joint order on 7 July 1993 prohibiting the use of shackles and chains on detainees and placing all detention centres under their supervision. Detention centres and prisons are supervised by these three ministries.

172. Pursuant to the joint order, the Ministry of Justice has addressed an official directive (No. 509 dated 13 September 1993) to all provincial and municipal prosecutors requesting them to visit detention centres at least twice a month to check on the legality of conditions of detention, in accordance with the provisions of articles 9 and 12 of the Transitional Criminal Law. For its part, the Ministry of Health has urged all hospital administrators to cooperate closely with local authorities to monitor the health of detainees (letter No. 816 dated 3 May 1994). Medical officers make visits to detention centres twice a week, but they lack the medicines to treat patients. The Ministry of the Interior has requested all provincial and municipal police commissioners to cooperate with hospitals in taking care of detainees (letter No. 653 dated 4 August 1993).

173. The Royal Government has set the daily food allowance at a rate of 1,000 riels per detainee (sub-decree No. 9 dated 15 November 1993). This sum corresponds to the salary of middle-ranking State officials.

174. Detainees also have the right to send out one letter a month and to receive a visit from family members once every two months. This period may be shortened depending on the extent of the detainee's rehabilitation (arts. 23-25 of the 1983 internal regulations for rehabilitation centres under the Ministry of the Interior of the People's Republic of Kampuchea). Medical officers and lawyers may also be authorized to make prison visits.

175. There are currently 24 prisons and detention centres in Cambodia. At the end of 1994, there were 803 convicted prisoners, including 15 women, and 670 unconvicted detainees, including 12 women.

176. The dark cells were abolished after the 1993 elections, but the buildings containing them have not yet been demolished because of the risk to adjoining structures, which are in an advanced state of disrepair. Whatever the severity of their punishment and the nature of their crime, convicted prisoners must not be kept in solitary confinement. The use of shackles and

chains has been prohibited by the joint order, but such instruments continue to be applied to recalcitrant and dangerous prisoners in order to keep the peace in prisons.

177. Changes have taken place since the establishment of the interim Government in 1993. However, the situation is still unsatisfactory and international standards are not always adhered to. Circumstances vary from one place to another. All Cambodian penal institutions are dilapidated and the level of training and responsibility of prison officials vary widely.

178. Problems persist in all areas relating to the living conditions of detainees and prisoners because Cambodia is currently facing considerable economic and financial hardship. For example, Cambodian prisons date from the colonial period and their dilapidated state does not meet current requirements. Moreover, the staff responsible for penal institutions lack in-depth training in human rights matters. The Royal Government has nevertheless made an effort to rectify these problems gradually: the detention centre at the criminal investigation service in Phnom Penh has already been renovated and excess detainees have been transferred; the Cambodia Office of the United Nations Centre for Human Rights has organized a seminar for prison administrators which was also attended by prosecutors; the organization Médecins du Monde and the Cambodian League for the Promotion and Defence of Human Rights have provided doctors and medicines to treat sick detainees.

Paragraph 2

179. Article 38, paragraph 7, of the Constitution states that "every accused person shall be considered innocent until finally convicted by the court". Article 25 of the Transitional Criminal Law sets forth the same principle of the presumption of innocence. Article 8, paragraph 1, of the same Law furthermore states that "the purpose of the prison system is social rehabilitation. All prisoners shall be treated in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners". Thus, in principle, prisoners awaiting trial are segregated from convicted persons and are accorded different treatment appropriate to their status as unconvicted persons.

180. The segregation of untried and convicted prisoners is not yet a reality in Cambodia owing to the shortage of space. The criminal investigation service in Phnom Penh does have a pre-trial detention facility for remand prisoners. However, since its capacity is limited, some remand prisoners are held in other premises intended for convicted persons. Provincial police stations do not have pre-trial detention facilities; remand prisoners are held at the provincial prison, but they are separated from convicted prisoners.

181. Because they are kept in the same prison as convicted prisoners, untried detainees are subject to the same arrangements in respect of administration, food and visits as convicted prisoners. They must submit to the same discipline. However, they have the right to wear their own clothes, to be sent food from outside and to receive visits more frequently than convicted prisoners.

182. In the immediate future, the Royal Government is unable to ensure the effective implementation of the principle of segregating convicted and untried prisoners because the country is experiencing serious economic and financial problems. However, it reiterates its request to international organizations to provide assistance in the matter of prisons with a view to resolving the country's problems. At the Ministerial Conference on the Rehabilitation and Reconstruction of Cambodia held in Paris, the Ministry of Justice requested help in renovating eight penal institutions to ensure that they meet required standards.

183. Although untried and convicted prisoners may be held in one and the same prison, they are segregated according to the nature of the offence they have committed or the charges against them, and also according to sex. Female detainees are guarded by female personnel. But in some penal institutions, such as T3 prison in Phnom Penh, there are no female prison officers.

184. According to article 14, paragraph 5, of the Transitional Criminal Law, juveniles under the age of 13 years may not be remanded in custody. Juveniles between the age of 13 and 18 years may not be remanded in custody for more than two months. This period may be extended to four months if they are accused of a serious offence. Young prisoners must be segregated from adults and must undergo personal rehabilitation in a special institution. At the end of 1994 there were 28 juvenile inmates. The Royal Government has authorized the establishment of a rehabilitation centre for juveniles under the age of 18 (sub-decree No. 17 dated 18 April 1994).

Paragraph 3

185. Despite the lack of a law or standard for the segregation of categories of prisoners, in practice the Cambodian Government has acted on the basis of paragraph 8 of the United Nations Standard Minimum Rules for the Treatment of Prisoners and the internal regulations of prisons and detention centres issued in 1983 by the Ministry of the Interior, with a view to facilitating the administration and rehabilitation of all categories of prisoners.

186. Convicted and untried prisoners are permitted to read newspapers, books and magazines, and to practise their religious faith. This also contributes to the improvement of their mental state (art. 5 of the internal regulations for rehabilitation centres). In addition, prison officials have organized workshops for untried and convicted prisoners, according to the category involved, in order to teach them how to live in a law-abiding manner. Untried prisoners also take part in workshops designed to elicit criticism and self-criticism of their personal conduct and to encourage respect for the internal regulations of the prison. These workshops are themselves a kind of education, enabling prisoners to adapt to the discipline of the law (art. 17 of the internal regulations for rehabilitation centres).

187. The Ministry of the Interior has also prepared a draft order on prison administration in conformity with international standards.

Article 11

Prohibition against imprisonment for failure to fulfil a contractual obligation

188. Article 11 of the Covenant provides that "no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation". This means that no one may be imprisoned for debt. Failure to pay a debt may be due to the debtor's insolvency and poverty. However, the 1992 Law on the procedure for execution of civil judgements does authorize imprisonment for debt in cases where the debtor is solvent but persists in refusing to repay the debt (arts. 125-128, 131-133, 136-137 and 139).

189. However, the Law makes exceptions for everyone meeting the conditions established in article 132: "The court shall not order civil imprisonment against the following:

Minors under 18;

Men over 70 and women over 65;

Disabled people;

Pregnant women and women with children under three;

Guarantors;

The debtor's relatives through the fourth generation;

Debtors owing less than 100,000 riels;

The debtor's heirs";

and authorizes the debtor's release in cases of serious illness (art. 134), at the creditor's request (art. 135) or in cases of failure to pay an allowance (art. 141): "If the creditor fails to pay maintenance, the debtor shall be released on the day following the expiry of the time-limit set for that purpose."

190. Generally speaking, this law is not applied to insolvent and impoverished debtors. In keeping with the country's situation, it is applied only to delinquent debtors. It should be noted that imprisonment for debt does not appear in the draft new Code of Civil Procedure.

Article 12

Liberty of movement and freedom to choose one's residence

Paragraph 1

191. The Kingdom of Cambodia strictly enforces article 12 of the Covenant, in that Cambodian citizens and foreigners lawfully resident in Cambodia have the right to liberty of movement and freedom to choose their place of residence

within the country (Constitution, art. 40). Cambodians are forbidden to travel to or settle in certain outlying areas because of insecurity owing to the Khmer Rouge and minefields. The east and north of the country are the regions primarily affected.

192. In the 1980s movement was strictly controlled because of infiltration by the Khmer Rouge. People are now free to travel or change residence. However, some groups of dishonest individuals have set up illegal checkpoints in an attempt to extort money from travellers on the pretext of ensuring road safety. After the elections, the Royal Government had ordered the elimination of all such checkpoints. But groups of armed individuals who demand money from vehicles transporting passengers and goods still exist. Despite its efforts, the Royal Government faces serious difficulties in combating such practices; it is in the process of reorganizing the military structure to strengthen discipline within the armed forces.

Paragraph 2

193. Pursuant to article 12, paragraph 2, of the Covenant, Cambodian citizens may settle abroad or return to their own country (Constitution, art. 40, para. 2). The exit visa for leaving Cambodia was eliminated for Cambodian citizens in 1992. The Ministry of the Interior is competent to issue standard passports to citizens. The Ministry for Foreign Affairs and International Cooperation is competent to issue duty passports to civil servants. Foreigners are entitled to leave Cambodia freely. An application to reside in Cambodia must meet the requirements of articles 6 and 23 of the Immigration Law.

194. Any foreigner involved in an offence who has not been tried is not authorized to leave Cambodia; an example was the case of three foreigners charged with drug trafficking, who were arrested and detained by the competent authorities on 4 January 1995. On 31 July 1995, the court at Phnom Penh sentenced the three drug traffickers to 10 and 5 years' imprisonment.

Paragraph 3

195. Cambodian legislation provides for restrictions on freedom of movement. Such restrictions are necessary for national security, public order, health and the smooth functioning of society, or to protect the freedom of others, and in no case undermine the rights recognized by the Covenant.

196. The Immigration Law stipulates that non-immigrant foreigners may reside in Cambodia on three conditions: they must have authorization from the Royal Government of Cambodia, hold a passport or other equivalent document, and pay the entry visa tax (art. 8). In the absence of any of these conditions, foreigners are not authorized to enter Cambodia, unless there is a decision to the contrary by the Royal Government (art. 39, para. 1). In the event of a threat to national security, the competent authority may refuse entry into Cambodia even if the non-immigrant foreigner has met all the conditions established in article 8 (art. 9).

197. If necessary, the Minister of the Interior may prohibit entry or settlement in a certain region or exit therefrom (art. 17). This occurred in

the region where the Khmer Rouge had taken hostage three foreigners, a Frenchman, an Englishman and an Australian, on 11 April 1994. The Royal Government had barred journalists' access to the area at the time.

198. Foreigners who are settling or have just settled in Cambodia must be cleared by the provincial or municipal police authority (Immigration Law, art. 22). With regard to foreigners applying to resume residence in Cambodia, the Royal Government authorizes only those in possession of papers proving that they lived in Cambodia under the former regime, i.e. before 1975. The Royal Government is currently looking into the question of foreigners who have lived in Cambodia since 1979 and who returned to Viet Nam out of fear of massacres by the Khmer Rouge: those in possession of papers proving that they lived in Cambodia before fleeing to Viet Nam will be given permission to return.

Paragraph 4

199. All Cambodian citizens residing abroad have the right to return to their country with no legal restrictions (Constitution, art. 40). They are not to be exiled from their country (art. 33).

Article 13

Right of aliens not to be unlawfully expelled

200. Any alien who violates the provisions of the Immigration Law may be expelled from the Kingdom of Cambodia pursuant to a decision by the Minister of the Interior (Immigration Law, art. 35). The following are grounds for expulsion:

(a) Behaviour and activities that undermine the national security of the Kingdom of Cambodia (art. 36).

(b) A clear and reliably attested attempt to undermine the security of the Kingdom of Cambodia (art. 36).

(c) Non-possesion of a work permit (art. 36).

(d) Illegal entry into Cambodia (no entry visa) (art. 37).

Aliens who have applied for political asylum are not expelled from Cambodia, in accordance with international agreements.

201. According to law, the expulsion of aliens may be ordered only by the Minister of the Interior (art. 35). The expulsion must take place no more than seven days after the Minister's decision, except in cases where the court has ordered a stay of execution (art. 39). Aliens who have been the subject of expulsion measures in Cambodia have the right to seek a remedy before the court within a period of two months (art. 38). Mass expulsion measures are prohibited. The competent Cambodian ministers have expelled a number of aliens for violating Cambodian law, including nine Thais who posed a threat to the security of Cambodia in 1994. Arrangements are made with the embassy in question prior to expulsion.

Article 14

Equality before the law and right to a fair trial

Paragraph 1

(a) Equality before the law

202. Equality before the law is the foundation of social justice in a democracy. The Constitution of the Kingdom of Cambodia guarantees the equality of all before the law:

> All citizens are equal before the law (art. 31.2);
>
> Everyone has the right to defend himself in a court of law (art. 38.8);
>
> All citizens have the right to report an offence, to lodge a complaint and to seek compensation for any injury sustained (art. 39).

203. Thus, the principle of the equality of all individuals before the law is guaranteed and protected by the Constitution. In practice, however, this principle is not yet properly applied. Many factors exist which weaken this principle.

204. Problem of impunity: Many detainees have been lawfully tried within the time-limit established by law (Transitional Criminal Law, art. 21.1). However, as indicated earlier, many others have been detained without trial beyond the six-month period. It has not been possible to arrest and try some suspects serving in the armed forces. For example, on 29 March 1994, one soldier from Battambang, supported by several others, attacked the prison in an attempt to obtain the release of persons imprisoned for drug trafficking; a general in Kratié ordered his deputy and two other subordinates to make threats against the prison to obtain the release of a prisoner.

205. Judges' fears: Judges are fearful, owing to threats against their own lives and those of members of their families. The following cases of intimidation of judges and threats against their lives have been reported. On 13 May 1994, members of the military attacked the home of the prosecutor at the Kampong Som court in an attempt to kill him. A few hours later they burst in on a court hearing. The judge, prosecutor and court clerk became frightened and fled. On 7 July 1994, members of the military entered the courthouse at Phnom Penh, seeking to intimidate the judges; on 7 July 1994, members of the military entered the courtroom of the Kandal tribunal in an attempt to intimidate the judges. Such events make judges fearful of carrying out their functions.

206. On 28 December 1995, an attempt to enforce a judgement by the civil court at Phnom Penh met for the third time with organized obstruction from a group of gendarmes armed with pistols, rifles and submachine guns. The Minister of Justice, determined to prevent the violation of the law, intervened to enable the court to enforce its judgement, which it succeeded in doing on 11 January 1995. In a violent incident which also took place

on 28 December 1995, 200 members of the congregation and bonzes from a pagoda in the Kg. Tralach district, province of Kampot, armed with machetes, axes, clubs and diesel oil mixed with acid, ransacked the court building at Kampot, destroying the fence, front door, offices, chairs and other equipment, including 100 civil and criminal case files. The cause of the incident was the court's decision to restore to the pagoda a disputed piece of land on which the people were living, at the pagoda's request. The losing party appealed, but at the urging of the representative of the local authority, it did not wait for the verdict of the Court of Appeal. The Minister of Justice, with his usual determination, approached the Minister of the Interior to ensure that such events would not recur in any province or municipality, particularly Kampot. He also ordered the prosecutor at Kampot to open an urgent investigation into the case and bring to justice those responsible for the violent event in question.

207. Corruption of judges: Judges must dispense justice in accordance with the law, must not be influenced by personal feelings and must not receive benefits from the people they try. However, this cannot be fully guaranteed. Some judges, unable to bear the difficulties of their daily living conditions, accept bribes and take biased decisions, thus weakening the principle of equality before the law.

208. Inequalities in legal defence: The law guarantees every person charged with a criminal offence the right to defend himself. Article 38, paragraph 8 of the Constitution and article 10 of the Transitional Criminal Law guarantee the accused the right to legal assistance. Article 76 of the 1993 Criminal Procedure Law authorizes accused persons to defend themselves or to ask the court to assign them a defender. Despite this legal guarantee, it is not possible to ensure an equal defence to all, especially to accused persons who have no knowledge of the law or who are poor and cannot afford to pay someone to defend them. Even in cases where the accused do have defenders, the latter encounter problems in performing their duties as they are, occasionally or systematically, refused permission to meet their clients in prison. This jeopardizes the principle of equality before the law.

(b) Fair and public hearing by a competent, independent and impartial tribunal established by law

209. Independence of the judiciary: According to the 1993 Constitution, the judicial branch is an independent branch of government in the Kingdom of Cambodia (art. 109.1). Neither the legislature nor the executive branch can exercise judicial power (art. 111). The independence of the judiciary is guaranteed by the King (art. 113.1). The Supreme Council of Justice is to assist the King in guaranteeing the independence of the judiciary (art. 113.2). The independence of judges is also guaranteed by article 1 of the Transitional Criminal Law, in conformity with the United Nations Basic Principles on the Independence of the Judiciary. The independence of the judiciary is guaranteed by law. However, practice has shown that, owing to interference and pressure from other branches, the courts are not fully independent.

Relationship between the Ministry of Justice and the courts

210. According to the law on the organization and functioning of the judicial bodies of the State of Cambodia, which is still in force, the Ministry of Justice has a very close relationship with the courts, which it is in charge of administering. Nevertheless, judges enjoy sufficient independence in taking their decisions, i.e. they do not have to ask the Ministry of Justice for its opinion before handing down a decision, and the Ministry of Justice does not interfere in judges' decisions.

211. Given that the Supreme Council of Justice has not yet been established, the trial courts, the Court of Appeal and the Supreme Court do not yet function well, because of the lack of competent staff and documents available for consultation. Some judges are obliged to seek the opinion of the Ministry of Justice on the interpretation of articles and the determination of offences; the Minister of Justice makes recommendations and issues guidelines to enable the judges to apply laws and procedures correctly. Such actions might weaken the independence of the judiciary to some extent, but under the present circumstances, in which judges are not sufficiently experienced, they need guidance in order to perform their work.

Relationship between the provincial authorities and the courts

212. Before 1992, the courts were completely subordinate to the provincial authorities from both the personal and the financial points of view. Since 1992, and more particularly since the Constitution's entry into force in September 1993, the judiciary has been an independent branch (art. 109). The courts are no longer under the administration of the provincial and municipal authorities. However, as the influence of the past has not yet been completely eliminated, the provincial and municipal authorities might weaken the independence of the judiciary to some extent.

Interference by other branches

213. Interference by other branches in the work of the courts most often takes the form of pressure, obstruction of proceedings and threats by those in power, particularly when they are members of the armed forces.

214. Impartiality of the courts: Articles 109.2 and 110.2 of the Constitution stipulate that the courts must render their decisions impartially and strictly according to the law. However, the courts' decisions depend on the independence of the judiciary and on equality before the law. As the independence of the judiciary and the equality of all before the law are not fully guaranteed, the impartiality of the courts also cannot be fully guaranteed.

215. The impartiality of the courts is furthermore linked to the rules governing the status of judges, by which all judges are guided in performing their duties. The Supreme Council of Justice is to decide on appointments, promotions and grades, transfers and disciplinary measures. However, despite the National Assembly's adoption of the Law on the Organization and Functioning of the Supreme Council of Justice on 22 December 1994, the Council is not yet operational. The Ministry of Justice is in the process of drawing

up a report for the King in preparation for the convening of the Council's first meeting. In the interim, the Minister of Justice has made proposals to the King regarding the appointment of new judges from among candidates holding a law degree, as well as proposals concerning the transfer of prosecutors and judges from one court to another, at their request.

216. Competence of judges: From 17 April 1975 to 7 January 1979, under the Khmer Rouge regime, all judicial bodies were destroyed and nearly all the judges were killed. The Ministry of Justice managed to reincorporate only five surviving judges in early 1980. The judicial system was re-established in mid-1982 and a law on the organization and activities of the courts was enacted by the National Assembly on 10 February 1982. New judges were recruited by the Ministry of Justice, which establishes the rules governing their profession. Since then, the Ministry has organized short-term training courses to enable these new judges to acquire the necessary legal knowledge and basic practices, that is, to learn on the job. Because there is a lack of sufficiently qualified instructors, judges' training does not yet guarantee quality. The Ministry of Justice has also made its staff available to the courts for the training of judicial personnel. As a result of a number of successive training sessions judges have been able gradually to acquire knowledge and capacities. However, this is still not enough. In order to develop capacities and provide the courts with the remaining judges they require, the Ministry of Justice, with French assistance, trained 42 new judges in 1994 and 1995, and in the coming years intends to train other judges to be recruited from among candidates holding a law degree. An 18-month training programme for the provincial and municipal courts began, with American assistance, in May 1995. The Cambodia Office of the Centre for Human Rights also began its assistance programme for judges in the provinces in 1995.

217. Establishment and competence of the courts: All the courts currently operating in Cambodia, including military courts, were established in conformity with the 1993 Law on the Organization and Functioning of the Courts and with the Transitional Criminal Law. All the courts are therefore competent to render judgements in accordance with the law. The military court system is not competent to try ordinary offences, which means that accused persons are guaranteed the right to appear before a competent court. No special courts have been established to resolve special cases. All proceedings, including administrative cases, fall within the competence of the courts of the judicial system (Constitution, art. 109).

218. Public hearings: According to article 128 of the Criminal Procedure Law and article 23 of the Transitional Criminal Law, all proceedings must be held in public. The provisions of these two laws are applied by all the courts. Only the parties, witnesses and other persons involved are given notice to appear at the hearing. But in fact the hearing is also attended by the public.

219. However, the legislation also provides for hearings in camera. Article 129 of the 1993 Criminal Procedure Law provides that "if public proceedings might prove dangerous to public order and morality, proceedings in camera may be ordered. Hearings in camera may cover only a part of the proceedings. In other words, the duration of the in camera proceedings is

strictly limited to the examination of the case. The judgement must be rendered in public, on pain of invalidity." Article 23 of the Transitional Criminal Law also stipulates that "all proceedings must be held in public, except when the victim or his beneficiaries request proceedings in camera and the judges agree."

220. Whether the hearing is held in public or in camera, the judgement must be pronounced in public (Criminal Procedure Law, arts. 129 and 142). This principle applies to the courts at all levels. Even when the judgement cannot be pronounced immediately, the court must inform the participants of the date on which it will be announced so as to enable everyone to participate.

221. The measures taken by the Royal Government to enforce these principles are an indication of the importance it attaches to the need to improve and strengthen the judicial system. The Ministry of Justice has prepared a draft Code of Criminal Procedure and a draft Code of Civil Procedure in an effort to improve the adjudication and effectiveness of the courts at all levels. The bill on the status of judges provides for the appointment, advancement, transfer and discipline of judges, as well as appropriate remuneration to enable them to lead an honest life. The Court of Appeal has been operating since May 1994 in order to guarantee the highest possible level of justice. The National Assembly has passed the Law on the Organization and Functioning of the Supreme Council of Justice, which is responsible for guaranteeing the independence of judges.

Paragraph 2

222. Regarding the presumption of innocence, article 38.7 of the 1993 Constitution states that "every accused person shall be considered innocent until the court's decision becomes final". Article 25 of the Transitional Criminal Law stipulates that "all suspects and accused persons or defendants shall have the benefit of the most absolute presumption of innocence". These legal provisions are recognized throughout the Kingdom. In practice, however, situations may be found where persons not yet tried by the courts are held in the same prison as convicted persons and where, during interrogations, some police officers have put pressure on accused persons in order to obtain confessions.

223. The above is inevitable, especially under the present circumstances, as Cambodia is encountering many difficulties in all areas, for example, being unable to build pre-trial detention facilities. Nevertheless, unconvicted prisoners are segregated from convicted prisoners. Beatings during interrogation are attributable to the fact that some police officers lack the proper techniques for questioning accused persons.

224. In order to guarantee the proper implementation of the above-mentioned principles, the Royal Government has taken the following measures:

It has appealed for international assistance to improve the prison system;

The Ministry of the Interior has requested a budget appropriation for the construction and renovation of prisons;

The Ministry of Justice has prepared a draft Criminal Code and a draft Code of Criminal Procedure, both of which clearly establish the presumption of innocence;

Training courses are provided for prison staff, with assistance from the Cambodia Office of the Centre for Human Rights and NGOs.

Paragraph 3

225. Every accused person is guaranteed the following rights:

Right to be informed promptly of the charges against him

226. Article 13.1 of the Transitional Criminal Law sets a 48-hour time-limit for the detention of suspects by the police. Article 75 of the Criminal Procedure Law requires examining magistrates to inform accused persons of the charges against them. These principles are binding throughout the Kingdom, but they are not applied in a satisfactory manner. Some accused persons are not brought before the prosecutor within the 48-hour time-limit. Others are detained without a warrant of committal. Still others are arrested without an arrest warrant. Such persons may not know the charges against them. In order to limit these problems, the Ministry of Justice has issued strict orders to all prosecutors to visit the detention centres and prisons under their jurisdiction at least once a month.

Right to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing

227. Article 38.8 of the Constitution states that "every person has the right to defend himself in a legal proceeding". Articles 13.4 and 21.2 of the Transitional Criminal Law stipulate that, within 48 hours after arrest, the defender or lawyer must receive written notificaton of the charges against the suspect and must be informed of the date of his client's trial at least 15 days in advance. Articles 76, 78 and 80 of the 1993 Criminal Procedure Law grant accused persons the right to legal assistance as from their first appearance before the examining magistrate. These articles also grant the lawyer or defender the right to inspect the file and to communicate freely with the accused. These provisions ensure that accused persons have adequate time for the preparation of their defence.

228. The above principles are binding throughout the Kingdom, but they are not applied in a satisfactory manner. One problem concerns the ability of the lawyer or defender to communicate freely with the accused: most of the time, the lawyer or defender will have been unable to speak privately with his client, prison staff in some cases being present when counsel and client meet.

Right to be tried without undue delay

229. Accused persons in custody have the right to request the court to try them without undue delay. This right is protected and guaranteed by the law, which sets the maximum duration of detention at six months (Transitional

Criminal Law, arts. 14 and 21). These legal provisions guarantee accused persons the right not to be held in detention pending trial for more than six months.

230. Articles 61 and 64 of the Criminal Procedure Law provide that persons arrested in flagrante delicto must be tried immediately or as promptly as possible. If the file is incomplete, however, the court may postpone the case to a later date, which may not be later than four months from the date of arrest. If a serious offence is involved, an immediate trial is not possible. Sufficient time is needed for the investigation to be conducted properly so as to identify those persons actually responsible (art. 60 of the Criminal Procedure Law).

231. These principles are binding throughout the Kingdom. However, under the present circumstances, in which the number of judges is small, and where our investigators' capacities and the resources available to them are limited and the number of trials is increasing considerably, these principles are not applied in a satisfactory manner. There are delays in trying most accused persons. According to reports from prosecutors in 17 provinces which were brought to the attention of the Ministry of Justice at the end of 1994, of 785 unconvicted prisoners, 52 had been held for more than six months without being tried or released. However, the Ministry of Justice has continually reminded prosecutors of their obligation to bring accused persons to trial promptly.

Right to a defence

232. The right to a defence is a fundamental right guaranteed by article 38-8 of the 1993 Constitution. Article 10.1 of the Transitional Criminal Law recognizes the right to legal assistance for all persons charged with an offence or crime. Article 7 of the Law requires accused persons to be provided with such assistance to seek a remedy. Articles 75 and 76 of the Criminal Procedure Law recognize the right of accused persons to defend themselves in person or through counsel of their own choosing or assigned to them by the court.

233. The right to a defence is recognized throughout the Kingdom. There are currently an insufficient number of lawyers in Cambodia, as nearly all lawyers were murdered by the Khmer Rouge regime. In 1982, the Government designated 62 public servants having some legal knowledge to fulfil defence functions in court proceedings, with three defenders available per court. Following the adoption by the National Assembly of the Transitional Criminal Law, which establishes the criteria for such defenders, the activities of the latter have increased as a result of the assistance provided by UNTAC in regard to training.

234. Certain human rights associations and NGOs have Government authorization to train defenders. In early 1995 25 new defenders recognized by the Ministry of Justice began defending accused persons in criminal proceedings, primarily in the provinces. These defenders are occasionally assigned by the court to defend accused persons free of charge. Thus, accused persons are provided with a legal defence in all circumstances.

235. In October 1995, 29 new lawyers took their professional oath. A bar association has been established and a president elected.

Right to have witnesses

236. The right to have witnesses guarantees fairness in the court's decision. Both parties, the prosecution and the defence, must have witnesses and discussion must be permitted during the hearing; that is stipulated in article 24 of the Transitional Criminal Law. Articles 133, 134 and 135 of the 1993 Criminal Procedure Law provide that the judge must hear all of the parties' witnesses.

237. The prosecution and defence witnesses are equal before the law. The 1993 Criminal Procedure Law provides, in article 134, that all witnesses must be sworn in; taking the oath serves as a reminder to witnesses that, on the basis of their respective religious beliefs, they must tell the truth.

238. During the hearing, all witnesses must be heard and questioned by the court (Transitional Criminal Law, art. 24.1, and Criminal Procedure Law, arts. 130-137).

239. Both prosecution witnesses and defence witnesses must, upon being given notice by the court, be present during the hearing. In practice, however, witnesses, especially defence witnesses, are sometimes absent and merely submit their statements in writing (in general, it is very rare for there to be defence witnesses in criminal cases). In such instances, the witnesses can neither be heard nor be questioned.

240. However, prosecution witnesses and defence witnesses are generally heard by the examining magistrate and the clerk of the court reproduces all their statements in the record. Witnesses are reluctant to appear at hearings for fear of reprisals by parties to the case. Some witnesses do not have the wherewithal to attend a hearing, and courts have no budget to defray their travel and subsistence costs. In this instance, the magistrate has to go to the witnesses' places of residence to examine them and enter their depositions in the record. At the hearing, the court will then simply have the clerk read out the witnesses' statements as contained in the record.

241. The absence of witnesses during proceedings means that not all the facts can be checked. The Royal Government has taken the following measures to deal with this problem:

The Ministry of Justice is reorganizing the judiciary to ensure that judicial procedure can be properly followed;

In refresher courses it holds for magistrates, lawyers and prosecutors, the Ministry of Justice emphasizes that in every hearing the witnesses must be heard;

The draft Criminal Code and the draft Code of Criminal Procedure make it obligatory for the witnesses to be present at the hearing and provide for the protection of witnesses against all acts of reprisal by the parties to a case.

Right to the free assistance of an interpreter

242. This right enables a defendant or witnesses who do not speak the official language to express their opinions before the court. There is as yet no rule on this matter in Cambodian law. Article 136 of the 1993 Criminal Procedure Law merely provides that "if a defendant or witness is a deaf mute, but knows how to write, the clerk shall submit questions and comments to him in writing and he shall reply in writing. If he does not know how to write, the magistrate shall designate as his interpreter the person who habitually converses with him by means of signs".

243. Article 136 of the 1993 Criminal Procedure Law also applies to persons who do not speak Khmer. In such cases, the court appoints an interpreter. Although there is no corpus of officially approved court interpreters, each court will, as necessary, appoint an interpreter or request the Ministry of Justice to do so.

Right not to be compelled to testify against oneself or to confess guilt

244. Article 38.5 of the 1993 Constitution provides that "confessions obtained by physical or mental duress shall not be considered proof of guilt". Article 24.3 of the Transitional Criminal Law similarly rejected forced confessions as evidence. That principle is not fully observed, since physical or mental coercion of accused persons is still quite frequent. This mostly occurs prior to their being brought before the prosecutor.

245. Confessions that accused persons make to the police are examined and verified by the prosecutor's office once it receives the case file. They are not binding on the judge. Article 41 of the Criminal Procedure Law provides that as a general rule "records of police questioning are for information only. In other words, they shall be considered simply as reports and neither the courts nor judges are obliged to believe them. In the absence of conflicting evidence, such records shall be considered valid". Article 42 of the Criminal Procedure Law states that "records of questioning by the judicial police shall, if drawn up by members of that force, be considered valid until they are proved otherwise. Judges shall therefore consider the contents of such records reliable and accurate until they are proved otherwise. Evidence in rebuttal of records may be submitted to the judge in the case without hindrance and by any legal means". Article 24.2 of the Transitional Criminal Law provides that "all evidence may be discussed at the hearing, including police reports, which shall not in any event constitute irrefutable evidence".

246. To ensure that these principles are properly applied, the Royal Government pledges to take the following measures:

Holding of courses for police officers, judges and prison officials on questioning techniques;

Prosecution of those who pressure or coerce witnesses or defendants or commit acts of torture.

Paragraph 4

247. As regards the treatment of accused juveniles, the Constitution affords special attention to the protection of children (art. 48.2). Article 14.5 of the Transitional Criminal Law defines the conditions for the pre-trial detention of minors and article 76.2 of the Criminal Procedure Law makes it obligatory for the president of the court to assign them a lawyer. No provision of the law clearly sets out the penalties or punishments applicable to minors; however, article 68 of the Transitional Criminal Law provides for minors to enjoy the benefit of mitigating circumstances. Articles 68.1 and 68.2 state that "judges shall take account of mitigating circumstances to reduce the penalties provided for in the present text to even below the minimum, especially in respect of the youngest offenders. For all defendants aged under 18, the penalties provided for in the preceding articles shall be halved, without prejudice to favourable treatment under the rules laid down by the existing administrative structures".

248. Cambodia does not at present have any law establishing juvenile courts or any special procedure for trying minors. Minors are subject to trial before the same courts as adults. The time required to decide their cases is the same as for adults; it depends on the speed or otherwise of police and judicial procedures.

249. With a view to separating young offenders from adults, as required by the United Nations rules on the treatment of prisoners, and to providing them with an education and vocational training before sending them back to live with their families, the State has, under sub-decree No. 17 concerning the role of youth rehabilitation centres, established a rehabilitation centre for young offenders. Its task is to re-educate delinquent minors of between 7 and 17 years of age. It opened its doors on 28 July 1995 and by 20 February 1996 a total of 147 young people, including one girl, had been sent to it. Of the inmates, 58 have already left the centre. That includes five who had been found guilty; the others had been arrested by the police and taken to the centre. The youngest inmates are 10 years of age. Most of the inmates are thieves and some are prostitutes.

250. The centre has room for 100 inmates. The persons working there include a doctor and a Ministry of Justice official. After the inmates have been there for a while, an examining board reviews their cases and decides whether to send them back to their families or to extend their training (Centre for Human Rights report, 20 February 1996).

Paragraph 5

251. In Cambodia, the right to request a higher court to review and reconsider a judgement to clarify its fairness and legality is guaranteed by law. Provision for the establishment of appeal courts and a Supreme Court was made in articles 4.1 and 5 of the Transitional Criminal Law and article 1 of the Law on the Organization and Functioning of the Courts.

252. The competence of the Court of Appeal is defined by articles 156 and 157 of the Criminal Procedure Law; the competence of the Supreme Court is defined

by articles 206 and 207 of the same Law. Both the Court of Appeal and the Supreme Court sit at Phnom Penh; they have jurisdiction over the entire country.

253. The Court of Appeal was established in May 1994 under article 5.1 of the Transitional Criminal Law and article 1 of the Law on the Organization and Functioning of the Courts. Parties to cases have the right to appeal decisions of lower courts to higher courts. The persons entitled to appeal are the accused or the person liable for damages, and the plaintiff or the prosecutor (Criminal Procedure Law, art. 161, and Transitional Criminal Law, art. 4). Convicted persons and plaintiffs are informed of their right of appeal as soon as judgement is given. An appeal may be made within two months of the judgement (1993 Criminal Procedure Law, art. 155).

254. There used to be no Court of Appeal, but only provincial courts and the Supreme Court. The provincial and municipal courts rendered both the first and the final judgements. Parties could, however, appeal to the Prosecutor-General or the President of the Supreme Court (1989 Criminal Procedure Law, art. 64). Protests against final decisions could be entered by the accused, the victims, the plaintiffs in civil cases, the persons found liable in civil cases, prosecutors, the Minister of Justice and the President of the Supreme Court (1989 Criminal Procedure Law, arts. 72-75). Decree-Law No. 34 of 26 August 1987 concerning the organization and functioning of the supreme people's court and the general prosecution service provided for the review of judgements in cases on which a final decision had already been taken: its article 9 (c) provided that the President of the Supreme Court or the general prosecution service could review the decisions of provincial or municipal courts. In the event of the rejection of such a decision, the assemblies of the Supreme Court or the general prosecution service could redraft the judgement or send the case back to the provincial or municipal courts for retrial.

255. By the middle of 1996, the Court of Appeal had been seized of 917 civil cases and had disposed of 206 of them, resulting in applications for review by the Supreme Court in 143 cases. By the same point in time, it had been seized of 437 criminal cases and had disposed of 110 of them, resulting in 32 applications for review. The Court of Appeal judges as to fact and law (1993 Criminal Procedure Law, art. 164). As it has only recently been established, it is still encountering many problems in its work: it is short of equipment and staff and its capacity is limited. The judgements of the Court of Appeal are subject to review by the Supreme Court.

256. The Supreme Court decides on matters of law and not of fact. However, it does also rule on matters of fact in the event of second pleas of nullity. The decisions of the Supreme Court are sovereign, i.e. they are subject to no appeal other than the review provided for in law.

Paragraph 6

257. The right to seek damages for injury caused by a miscarriage of justice is not expressly recognized in Cambodian law. Article 236 of the Criminal Procedure Law simply provides that when the Supreme Court, the body competent to review trials, finds that a convicted person is innocent, its judgement

must be published and displayed at the seat of the court which rendered the initial verdict and in the headquarters of the people's committee in the commune or neighbourhood where the convicted person lives.

258. The draft new Criminal Code drawn up by the Ministry of Justice contains a provision guaranteeing the right of victims of miscarriages of justice to claim damages.

Paragraph 7

259. According to the principle non bis in idem, no one who has already been tried for an offence may be tried again for the same offence. The Royal Government of Cambodia recognizes and observes this fundamental principle.

260. However, the law now permits the review of trials. Review is a remedy against judgements that have become final and acquired the authority of res judicata. Its sole purpose is to re-establish a person's innocence (Criminal Procedure Law, art. 228). Article 29 of the Transitional Criminal Law provides that "all persons who have already been tried may themselves or through their counsel or lawyer request the review of their trial if they consider that they were convicted on the basis of their ideas, opinions or statements or of their membership or non-membership of a given racial, ethnic, religious, political or social group". The Criminal Procedure Law also permits the review of trials.

261. To date, the principle non bis in idem has been respected in practice, and it is expressly included in the draft Code of Criminal Procedure, article 14 of which states that "no one who has been acquitted or convicted shall be arrested or prosecuted again for the same acts".

Article 15

No one may be tried except as provided by law

Paragraph 1

262. Following the principle "nullum crimen nulla poena sine lege", article 38 of the Constitution provides that no proceedings, arrest or detention may take place except pursuant to the law. No criminal penalty may thus be imposed on anyone for an act that is not classified as a criminal offence by domestic or international law.

263. In accordance with article 60 of the Criminal Procedure Law, the prosecutor must give the exact legal characterization of any act for which a charge is brought. Prior to the promulgation of the 1993 Criminal Procedure Law and the Transitional Criminal Law, however, Cambodia applied Decree-Law No. 2 of 1980, which recognized and punished only a small number of offences. To remedy that shortcoming, courts were authorized to apply the principle of analogy.

264. Although there is at present no express provision in criminal law regarding it, the Kingdom of Cambodia applies the fundamental principle of the non-retroactivity of criminal law. In practice, courts at whatever level

abide very strictly by that principle. The new Criminal Code will embody the principle of non-retroactivity for both serious and minor offences.

Paragraph 2

265. Cambodia acknowledges and applies this paragraph of the Covenant. Crimes of genocide were committed by the Khmer Rouge from 1975 to 1979. Their two leaders, Pol Pot and Ieng Sary, have been sentenced to death in their absence by a Phnom Penh court. The Royal Government of Cambodia will cooperate with the international community in bringing the other criminals to justice.

Article 16

Right to recognition as a person before the law

Paragraph 1

266. Cambodia respects and recognizes everyone's right, as stipulated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and the covenants and conventions relating to human rights and the rights of women and children, to recognition everywhere, from birth and irrespective of race, as a person before the law (Constitution, art. 31, para. 1). Everyone may exercise his rights and freedoms in accordance with the law and without infringing those of others. The right of everyone to recognition as a person before the law is strictly observed in practice.

Article 17

Right to the protection of one's honour and dignity

Paragraph 1

267. The Royal Government recognizes and observes article 17 of the Covenant. The Constitution and other laws prohibit all interference with privacy or the family and all attacks on a person's honour or dignity. The Constitution stipulates that "the law shall protect citizens' lives, honour and dignity" (art. 38, para. 2).

268. The Constitution guarantees the inviolability of the home and the secrecy of correspondence by letter, telegram, telex, facsimile or telephone. Searches of residences, other property or persons must be conducted in accordance with law (Constitution, art. 4, paras. 3 and 4).

269. Regarding searches, article 20 of the Transitional Criminal Law provides that:

Searches of premises may be carried out by the police in flagrante delicto cases;

Such searches must be made in the presence of the suspect and of two witnesses, if possible neighbours or the owner of the house;

In instances other than flagrante delicto cases, searches of premises may be authorized by a judge of the court in question or by the prosecutor. They may be made only between 6 a.m. and 6 p.m. and, if possible, in the presence of the suspect. Evidence obtained in breach of this article is not admissible at trial.

270. Criminal investigation officers have the right to make searches of premises and to take notes during the examination of witnesses. That right may, however, be exercised only in flagrante delicto cases (Criminal Procedure Law, art. 46).

271. In serious flagrante delicto cases, the prosecutor may, if no examining magistrate has been seized of the case, issue a warrant for the suspect's arrest. The prosecutor has the duty to assemble the information obtained in the house, make a search and seize all the necessary pieces of evidence, and is entitled to forbid any or all persons to leave the scene of the crime (Criminal Procedure Law, art. 62).

272. Regarding unlawful interference, citizens are entitled to institute an action at law or to seek redress for injury caused by illegal acts of State organs, social organizations or their agents (1993 Constitution, art. 39). Article 57 of the Transitional Criminal Law provides that "public servants, including police officers and members of the armed forces, who deliberately infringe the rights to inviolability of the person or domicile shall incur a penalty of between one and five years' imprisonment".

273. Defamation and injurious behaviour are prohibited by law. They are punishable by imprisonment for a period of between one week and a year and/or a fine. Perpetrators may be ordered to pay damages to the victims (Transitional Criminal Law, art. 63.3).

274. Thanks to the elections and the elaboration of the Constitution, the Criminal Procedure Law, the Transitional Criminal Law and other related legislation, the authorities and citizens have a better understanding of their obligations and of human rights, and complaints of unlawful searches of premises have therefore become less numerous. However, no precise information is available as to the number of such complaints or their disposition.

275. The Royal Government recognizes that there are some problems as regards the resolution of citizens' complaints. It is in the process of taking steps to prevent all interference with privacy, the family, the home or other personal matters, viz:

Strengthening discipline at all levels of each competent State organ;

Drafting additional legislation;

Informing the public of the texts of laws.

With a view to strengthening the application of the laws already in force, it has organized training courses for police officers and members of the armed forces.

Paragraph 2

276. Cambodian law protects everyone against interference. Everyone is entitled to bring an action in the event of violation of the rights referred to in article 17, paragraph 1, of the Covenant (see the 1993 Constitution, art. 39). Such complaints and related claims for damages are resolved by the courts.

Article 18

Freedom of thought, conscience and religion

Paragraph 1

277. In Cambodia, everyone has full freedom of religious belief. The Constitution proclaims the nation's motto to be "Nation, Religion, King" (art. 4). Buddhism is the State religion. Freedom of religious belief and worship is guaranteed by the State on the sole condition that this does not infringe the freedom of others or public order or security (art. 43).

278. Everyone has the same rights and obligations as regards the absence of discrimination and coercion in matters of religion (Constitution, art. 31, para. 2). Article 28.1 of the Transitional Criminal Law provides that "no one may be harrassed on account of his political opinions, religious beliefs or membership of any race or ethnic group. Anyone who has provoked national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be punished by imprisonment for between one month and a year and/or a fine of 1 to 10 million riels" (Transitional Criminal Law, art. 61). The law also prohibits all acts of torture that may deprive a person of his mental capacities or his conscience.

279. In Cambodia, 97.5 per cent of the citizens are Buddhists. There are 3,336 Buddhist pagodas and 39,342 Buddhist monks. In addition to Buddhism, citizens are free to practise other religions. The other religions practised are:

Islam, with 330 mosques and 221,753 practising believers;

Christianity, with nine Catholic churches and 1,430 practising believers and 115 Protestant churches and 13,014 practising believers;

Cao Dai, with one church and 100 practising believers;

Various Chinese religions, with 32 churches and 12,220 practising believers.

280. The religious organizations recognized by the Royal Government may engage in purely religious activities, on the basis of strict respect for the laws of the Kingdom and the regulations issued by the Ministry of Worship and Religion, and must formally undertake not to infringe the rights, freedoms or religious beliefs of others or social order. The Royal Government exercises neither distinction nor discrimination on the ground of religion.

281. Since the end of the Khmer Rouge regime, everyone who practised a religion before 1975 and has applied to practise it again has been permitted to do so. A number of religious associations recently installed themselves in Cambodia.

Paragraph 2

282. Neither the Royal Government nor the competent authorities have obliged anyone to practice any given religion. Religious education in general education schools is not compulsory. Since Buddhism is the State religion, the Ministry of Worship and Religion has, in accordance with article 68, paragraph 3, of the Constitution, set up schools to teach Pali and junior and senior high schools for monks. It has also, in accordance with article 42 of the Constitution, authorized Buddhist pupils to establish associations for the support of pagodas, and, in order to help Buddhist pupils with their studies, has created a board of interpreters to translate the Buddhist Tripitaka.

Paragraph 3

283. Exercise of the right and freedom of religious belief in connection with the celebration of religious ceremonies must not infringe public security or order or the rights or freedoms of others (Constitution, art. 31, para. 3, and art. 43, para. 2).

284. The religious group or organization in question must comply with the conditions set by the Ministry of Worship and Religion. Otherwise, the Ministry has the right and duty to summon officials of the organization to inform them of the problems and provide its comments.

285. There is at present no principle or law in Cambodia which limits rights in the sphere of religion. The Government may, however, restrict or end the activity of any religious group or organization which fails to comply with the orders of the Ministry of Worship and Religion or performs acts contrary to the principles of its own religion. On 25 November 1994, the Ministry ordered the immediate cessation of the activities of a religious organization on the ground of disturbance of the peace or, more precisely, on the ground of having, through false assertions of a kind to harm the activities of other Christian organizations, caused an upsurge of popular discontent.

Paragraph 4

286. While Cambodia has no law referring to parents' right to ensure their children's religious and moral education in conformity with their own wishes and beliefs, it acknowledges this principle as set forth in article 18, paragraph 4, of the Covenant. The Constitution does, however, provide that parents have an obligation to bring up their children to be good citizens (art. 47). Consequently, parents teach their children to believe in Buddhism. Pupils of State or private schools are free to make their own choice of religion. Most children, however, follow their parents' example and become Buddhists. Moreover, in rural areas, parents like to send their children to study under Buddhist monks. Some general education schools are located in the

grounds of pagodas and have been built with help from monks. These factors explain why Cambodian children are more influenced by Buddhism than by any other religion.

287. Buddhism is taught officially over the radio and television and in pagodas. Followers of other religions receive their religious education in the country's churches or mosques. Muslims practise their religion freely every day and gather in the mosques every Friday to study the Koran.

Article 19

Freedom of opinion and expression

Paragraph 1

288. Everyone has the right of freedom of opinion. This right is recognized by the Constitution of the Kingdom of Cambodia, article 41 of which states that every citizen has the freedom to express his personal opinion, and enjoys freedom of the press and assembly. However, like article 19, paragraph 3, of the Covenant, article 41 of the Constitution also states that "no one may make use of this right to infringe the honour of others, the morals and customs of society, public order or national security".

289. As in the past, some newspaper editors exceed their rights: they do not express their opinions to criticize the Government, but undisguisedly insult the co-Prime Ministers. For example, they describe, and draw caricatures portraying the Kingdom of Cambodia as a country of robbers headed by thieving government leaders, etc. Faced with such a disorderly and anarchic situation, in which the subjection of its leaders to a virtually constant stream of baseless criticism and humiliating and offensive insults makes the performance of its task almost impossible, the Government has no choice but to bring the matter before the courts.

290. This has led to court convictions for failure to obey the law on the dissemination of false information dishonouring others or of demeaning insults. However, the verdicts occasioned protests against the Cambodian Government by international public opinion and organizations for the defence of human rights and press freedom. The protesters accused the Government of having infringed journalists' rights and of having put pressure on the press in order to restrict its freedom of expression.

291. In parallel with this, there were two attacks on newspapers: on 24 March 1994, a grenade was thrown at the office of the newspaper Antarakum and on 8th December 1994 a journalist on the staff of Koh Santepheap was murdered at Kâmpóng Cham. The Government condemned the threats to journalists' lives and took steps to have both cases investigated. The Ministry of the Interior conducted an investigation into the murder of the journalist from Koh Santepheap and a suspect was arrested and handed over to the prosecutor for charging. The prosecutor disagreed with the examining magistrate and therefore filed an appeal, upon which the Court of Appeal decided that the suspect should remain in preventive detention while further inquiries were made. When those inquiries also failed to reveal adequate evidence of guilt, the court ordered the suspect's release.

292. No one is now under detention for political reasons. On 6 August 1995, six people were taken into custody for releasing anti-Government pamphlets from balloons. Public opinion saw those arrests as contrary to the right of freedom of expression of political opinions. In fact, the persons in question were arrested and prosecuted for having incited the population to hatred of the Royal Government (Transitional Criminal Law, art. 61). Following an investigation in which insufficient evidence was found to support the charge, and at the request of the co-Prime Ministers, the case was dismissed and all the prisoners were released.

Paragraph 2

293. The right to express one's opinions is one of the foundations both of freedom of thought and of democracy. This right is guaranteed and protected by the Constitution. Article 41 guarantees freedom of the press, of publication and of assembly. Freedom to express political opinions is protected by the Transitional Criminal Law (art. 28); freedom of the press is guaranteed by the Press Law adopted by the National Assembly on 18 July 1995.

294. On the basis of those rights, freedom of expression has been widely recognized in Cambodia since 1992. The expression of opinions is developing in every form and through every means, including magazines, radio, television and books. There are currently 47 local newspapers in Khmer, French, English or Chinese, and six radio stations and four television stations, including that belonging to the Royal Government, broadcast throughout the country.

295. This expression of opinions in every form and by every means is genuinely free because neither images nor articles are censored by the Royal Government. Only one condition must be met, that of approval by the Ministry of Information before any newspaper, radio or television station or printing house can commence operations.

296. Newspapers represent the commonest form of exercise of the freedom of opinion. They have formed an association, the Khmer Journalists' Association, which is working actively for the implementation of the journalists' code of ethics in order to guarantee freedom of the press. Another journalists' professional body, the League of Cambodian Journalists, was established recently.

297. In parallel with extension of the freedom of expression guaranteed by the Constitution (art. 41), journalists have encountered numerous problems:

On 24 March 1994, an unknown person threw a grenade into the office of Intervention, a newspaper;

A number of newspapers have been closed or suspended by the competent Ministry: on 16 May 1994, closure of Univers and confiscation of all issues on the ground of criticism of a high-ranking military officer; on 23 September 1994, closure of Bayon; on 23 December 1994, suspension for two weeks of Conscience Khmère on the ground of criticism of the Kingdom's supreme institution; on 17 July 1994, arrest and detention of Mr. Nguon Nuon, editor of Nouvelles du Matin, on the ground of publication of the article concerning the failed coup d'état of 2 July 1994;

On 16 July 1994, the Ministry of Information issued a circular to all newspaper and magazine editors requesting them to: comply with the Royal Government's declaration of 7 July 1994; refrain from making any comment or publishing any article injurious to His Majesty the King of Cambodia; observe the code of ethics of the Cambodian Journalists' Association; refrain from using indecent words or obscene or immoral expressions; observe the rules of Cambodian spelling; refrain from insulting members of the Royal Government, deputies or any other Administration official by employing degrading terms or altering their real names; refrain from making caricatures comparing the Royal Government with animals, especially dogs; refrain from publishing obscene images or stories;

On 16 December 1994, the Ministry sent a directive No. 1370.94 to all newspapers and magazines requesting them not to publish any obscene or immoral news item or report;

On 8 December 1994, Mr. Chan Dara, correspondent of Koh Santepheap, was murdered at Kâmpóng Cham;

On 19 May 1995, in proceedings before the Phnom Penh court, the editor of the L'Idéal Khmer newspaper, was fined 5 million riels and the newspaper was ordered to cease publication for having insulted the heads of the Government and published false news on 30 November 1994;

On 20 May 1995, the Phnom Penh court sentenced the editor of the La Liberté Nouvelle newspaper to one year in prison and a fine of 5 million riels and ordered the newspaper to cease publication;

On 7 September 1995, unknown persons threw grenades into the offices of Les Nouvelles du Matin;

On 23 October 1995, demonstrators ransacked the offices of La Liberté Nouvelle;

On 27 February 1995, the Phnom Penh court sentenced the editor of the La Voix de la Jeunesse Khmère newspaper to one year in prison and a fine of 5 million riels for having published false news on 12 and 13 January 1995.

298. The above incidents are the result, inter alia, of misinterpretation of freedom of expression, the exercise of which must not, in specific cases, exceed the limits provided for in article 19, paragraph 3, of the Covenant.

299. The new Press Law adopted by the National Assembly on 18 July 1995 permits the establishment of journalists' associations to defend press freedom.

Paragraph 3

300. Restrictions on the freedom of expression are necessary to guarantee democracy, since freedom must go hand in hand with obligations and duties. Hence, freedom of expression, especially freedom of the press, is limited by a number of obligations.

301. Along with its recognition of freedom of expression, article 41 of the Constitution establishes a number of restrictions. The 1995 Press Law also set certain conditions on press freedom (arts. 10-15). Similarly, the Transitional Criminal Law provides for certain restrictions on freedom of expression (arts. 59-63).

302. The purposes of restricting freedom of expression are to safeguard security and public morals and to protect the rights of individuals. This is consistent with article 41 of the Constitution, which provides that no one may abuse the rights to which it relates in order to dishonour others or to infringe the morals of society, public order or national security. That principle must, however, be defined clearly and in detail if it is to be properly applied. In the past, the scope of and misunderstanding about the freedom and its limits have occasioned problems regarding journalists, as described above.

Article 20

Prohibition of propaganda for war

Paragraph 1

303. There is an absolute ban on propaganda or any other publicity promoting war. The Royal Government continues to maintain its position in favour of peace and national reconciliation. The Government is fighting the Khmer Rouge because they refuse to agree to an end to the war, engage in propaganda designed to involve the rural population in the war against the Government, continue to kill decent people and cause destruction in the country every day by blowing up stretches of road, bridges and railway lines or selling the country's assets (precious stones, timber, and so on) to foreigners.

304. In 1994, in order to halt the provocations and acts of terrorism carried out by the Democratic Kampuchea group, the Royal Government initiated a campaign of very violent attacks on Khmer Rouge bases at Pailin, Anlong Veng and Phnom Voar. However, the Royal Government has not yet succeeded in arresting and punishing the criminals or those who have promoted war. For example, no Khmer Rouge leader has been arrested and punished to date. However, a Khmer Rouge officer was arrested and found guilty of the murder of three foreigners, in August 1994. In the interests of national reconciliation, the Royal Government continues to apply a policy of clemency towards any members of the Democratic Kampuchea Group or its armed forces who agree to return to its authority, sparing them from prosecution for the crimes they have committed (art. 5 of the Law on the Outlawing of the Democratic Kampuchea Group).

Paragraph 2

305. The law forbids any incitement to discrimination. Article 61.1 of the Transitional Criminal Law provides that "anyone who, by any of the means referred to in article 59, has provoked national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be punished by imprisonment for between one month and a year and/or a fine of 1 to 10 million riels". There are other provisions of the law which punish

those who provoke discrimination. The former Press Law of 1992 also prohibited incitement to war or discrimination or attacks on the internal or external security of the State (arts. 28 and 29). The 1995 Press Law also provides that "newspapers shall not publish anything which endangers public order by directly inciting one or more persons to resort to violence". The above offence is punishable by a fine of 1 to 5 million riels (art. 11).

306. Even though laws and regulations prohibit incitement to discrimination and violence on racial and national grounds, these phenomena continue to exist. By means of the Khmer Rouge radio, the Democratic Kampuchea group has intensified its anti-Vietnamese activities relating to Vietnamese colonization in Cambodia, and the group continues to massacre Vietnamese nationals living in Cambodia as well as the Cambodian population.

307. The Royal Government condemns all individuals and groups of individuals who incite national, social or religious hatred, just as it has condemned the Khmer Rouge who perpetrated racial violence on Vietnamese residents in Cambodia. The Government is committed to do all in its power to secure the arrest of the guilty parties and to bring them to justice.

Article 21

Right to peaceful assembly

308. Freedom of opinion and assembly is guaranteed in the Kingdom of Cambodia. Article 41 of the Constitution provides that "every Cambodian citizen shall have the freedom to express his or her personal opinion, and shall enjoy freedom of the press, publication and assembly. No one may make use of this right to infringe the honour of others, the morals and customs of society, public order or national security".

309. The right to strike and to demonstrate peacefully is also guaranteed (art. 37 of the Constitution).

310. Article 1 of the Law on Demonstrations adopted by the National Assembly on 27 December 1991, which is still in force, authorizes meetings of groups and gatherings for purposes of demonstrations. However, meetings, demonstrations or parades on the public highway or in public areas are forbidden where they infringe on public peace and order or individual or public security. Article 2 of the Law sets out the conditions in which gatherings or parades on the public highway for purposes of demonstrations shall be authorized: they must not infringe public peace, order or security, and in addition the competent authorities must be informed in writing, three days in advance, of the purpose of the event, the date, time and place of the meeting, the number of participants and the names, addresses and signatures of three organizers. Where the local authorities consider that the event might degenerate into a disturbance, they may forbid it (arts. 3 and 4 of the Law on Demonstrations).

311. Associations also have the freedom to assemble or hold peaceful meetings. Any association which already has an office in a province or

municipality and which intends to organize information courses must inform the local authorities five days in advance (Ministry of the Interior directive No. 474 of 2 July 1994).

312. In 1991, the police resorted to force to quell demonstrations, but since 1992 this practice has been dropped. In 1994, a few requests for permission to hold demonstrations were refused by the competent authorities on the ground of their danger to public order and national security. In August 1995, a grenade attack was mounted on the venue of a meeting of members of the Buddhist Liberal Democratic Party headed by Mr. Son Sann. Several dozen people were injured. This incident seriously infringed the principle of freedom of assembly. The Royal Government undertook to investigate the attack and secure the arrest and conviction of those responsible. To date no one has been arrested or prosecuted in connection with the incident. The Royal Government strictly forbids the use of weapons and explosives which are capable of harming human life.

Article 22

Freedom of association

Paragraph 1

313. The Constitution and legislation of the Kingdom of Cambodia guarantee the freedom to establish associations. Articles 36 and 42 of the Constitution provide that Cambodian citizens have the right to establish associations and political parties, and to form and join trade unions. Foreigners also have and are guaranteed the right to establish associations and trade unions. Currently, there is no legislation relating to the application of article 42 of the Constitution. Such legislation is being drafted. However, although it is not yet in force, 100 human rights organizations and other philanthropic organizations are already in operation, after lodging their statutes with the competent authority.

314. Currently there are no legislative provisions governing the creation of political parties. However, pending the adoption of a law on the subject, the Government refers to the UNTAC Electoral Law adopted in 1992 for the 1993 general elections, and specifically paragraph 10 relating to official registration for participation in the elections, and paragraph 11 on provisional registration of political parties. In May 1993, 20 political parties participated in the elections. Only four parties were represented in the Constituent Assembly. Currently the Government is in the process of drafting the electoral law for 1998. Any person or group of persons wishing to establish a new political party for this election must wait for the law to be adopted by the National Assembly.

315. As far as trade unions and professional associations are concerned, workers and employees have the same right to form and to be members of a professional association (Labour Law, chap. 11, sect. 2). State employees have the right to participate as members or officials of legal associations (art. 36 of the Law on the Common Statute for Civil Servants in the Kingdom of Cambodia, adopted on 21 October 1991). At the time of the State of Cambodia, civil servants and staff of ministries, offices, enterprises, factories and so

on set up trade unions to protect their interests. With the economic reform intended to create a market economy, all these trade-union organizations disappeared. The idea of setting up associations or trade unions has now begun to emerge again and associations or trade-union organizations of staff and officials are expected to reappear in the near future.

316. As regards the establishment of associations of journalists, since there were only four newspapers, all belonging to the State, under the State of Cambodia regime, there were no journalists' associations. When the United Nations Transitional Authority was in Cambodia, private newspapers appeared one after another. Currently, two associations of journalists have been set up. Under the new Press Law, journalists have the right to create their own associations freely, but each association must observe its own code of conduct (arts. 6 and 7).

317. Currently, despite the lack of a law governing associations, the Royal Government generally encourages citizens to set up associations. It continues to acknowledge and protect the interests of the associations which were established before or after May 1992, especially human rights associations.

318. Since Cambodia acceded to the Covenant, in May 1992, 170 associations and 122 NGOs have been set up. Some of these NGOs play a part in educating Cambodian citizens as regards their rights and their duties in a liberal and pluralist democracy. The associations of journalists play a very important role in protecting rights and freedoms from the abuses committed by the competent authorities against them or against journalists.

Paragraph 2

319. Under the Constitution of the Kingdom of Cambodia, the rights and freedoms listed in paragraph 1 above are limited in order that they should not infringe those of others (art. 31, para. 3), morals, public order or national security (art. 41). The right to establish associations and political parties is regulated under the law (art. 42).

320. Since 1992, any group which has at least five members and is not profit-seeking may establish an association without requiring a prior authorization (agreement in principle by the Supreme National Council concerning the exercise of the right to establish associations in Cambodia, 20 January 1992). But with the aim of facilitating their administration, the Ministry of the Interior issued directive No. 412 of 11 June 1994 inviting all associations and NGOs which had obtained an authorization from the Cabinet of the Head of State or the United Nations Transitional Authority in Cambodia or the Prime Minister or the Office of the President of the Council of Ministers or the Ministry of Worship and Religion to lodge their dossiers with it.

321. All non-governmental organizations which have already obtained an authorization must communicate the purpose of their activities and lodge their dossiers with the Ministry of the Interior. Those which have no authorization as yet must request one from the Ministry of the Interior.

322. Some non-governmental organizations directly asked the provincial or municipal authorities for an authorization to open an office and pursue their

activities without seeking the Government's agreement in principle or concluding a cooperation agreement with the ministries or institutions concerned. By letter No. 288 of 27 April 1994, the Ministry of the Interior notified the provincial and municipal authorities that they did not have the power to issue such authorizations. Some private associations carried out activities running counter to their statutes, for example by engaging in covert commercial activities or political activities with the aim of exploiting the interests of peasants, and so on. The Royal Government may set up a commission of inquiry to monitor their activities and call them to order. If such activities endanger public order and security, the departments concerned may bring the matter before the courts, which have sole power to resolve such cases. A bill on associations is in the process of being drafted.

Paragraph 3

323. Cambodia has not yet ratified the International Labour Organization's Convention concerning Freedom of Association and Protection of the Right to Organize, but freedom of association is recognized by the Constitution.

Article 23

Protection of the family

Paragraph 1

324. In Cambodia, the concept of the family embraces the parents and their dependent children. It is the duty of the State to guarantee the equality of the spouses in the marriage and in family life, strengthen the responsibility of parents for supporting their children and encourage the moral education and upbringing of the children so that they become good citizens, patriots and hard workers with a sense of responsibility vis-à-vis society (art. 1 of the 1989 Law on Marriage and the Family).

325. Under the Democratic Kampuchea regime, citizens of both sexes were compelled to marry collectively. These forced marriages have had serious consequences for Cambodian society. Following the overthrow of the regime, families broke up and children were abandoned or orphaned. Women suffered most in society. Acts of domestic violence against women are common.

326. Before 1992, in order to provide assistance to widows, the Government set up women's associations, from the provincial to the communal level. These associations played a very important role in providing both moral and material assistance to widows. The Royal Government has now established an Office of the Secretary of State for Women's Affairs to promote women's rights. In provinces and municipalities, the Royal Government has set up homes responsible for sheltering, maintaining and bringing up orphans so that they become good citizens. International and non-governmental organizations have also provided assistance and support to women and children who have been victimized.

Paragraph 2

327. As far as the right to marry and start a family is concerned, article 45 of the Constitution provides that marriage shall be celebrated in accordance with conditions laid down in the law, and the principle of free consent and monogamy. Marriage to a minor, forced marriage and hampering the exercise of the right to marry freely are strictly forbidden (art. 2).

328. Under the Law on Marriage and the Family, men aged 20 and over and women aged 18 and over may marry. Exceptionally, marriage may be entered into before those ages with the consent or authorization of the parents or guardians when the woman is pregnant (art. 5). Men and women who have fulfilled the age requirement have the right to decide freely to marry. Neither may impose his or her will on the other (art. 4).

329. Marriage is considered lawful only if the future spouses swear their marriage vows before a registrar at the woman's place of residence (art. 14).

330. Persons of the same sex, the impotent, persons who have contracted leprosy, tuberculosis, cancer or venereal diseases and who are not completely cured, the insane and those who are still bound by the ties of a prior marriage which has not yet been dissolved may not marry (art. 6). Marriage is also forbidden between persons connected by a direct link of blood or marriage of any degree, whether the link is legitimate, natural or adoptive, or between legitimate, natural or adoptive collaterals, uterine, consanguineous or germane, direct or by marriage, up to and including the third degree (arts. 7 and 8).

331. Every person has the right to start a family. To date the Government has introduced no measures of birth control. However, it has drawn up programmes of sex education for women, in pursuance of the birth spacing programme, with the aim of protecting their health and preventing abortions.

Paragraph 3

332. In Cambodia, marriage without the consent of the two future spouses is forbidden (art. 45, para. 4, of the Constitution, and art. 2 of the Law on Marriage and the Family). Under Cambodian tradition, parents decide on the marriage of their children. This gives an impression of parental coercion, but the parents normally only arrange the marriage, and it is the children who ultimately decide.

333. However, some parents in Cambodia still force their children to marry. Some have even gone so far on occasion as to beat their children for disobeying them (see also the commentary on article 8 of the Covenant).

Paragraph 4

334. The Constitution of the Kingdom of Cambodia provides that men and women are equal in all fields, notably in marriage and the family (art. 45, para. 3). Parents have an obligation to support and bring up their children

so that they become good citizens (art. 47). The State must protect the rights of children as defined in the Convention on the Rights of the Child (art. 48).

335. Under the Law on Marriage and the Family, the spouses are equal in every respect (arts. 29-37). The husband or the wife may seek a divorce if there are sufficient grounds to consider that cohabitation is no longer possible (art. 39). The decision concerning the divorce is taken by the court of the defendant's place of residence (art. 41).

336. In the event of divorce, the property is divided in accordance with a proposal by one of the spouses. Article 70 of the 1989 Law on Marriage and the Family provides that, in the event of divorce, the property must be divided on the basis of consent by the two parties. In cases of disagreement, each of the spouses recovers the property he or she possessed before the marriage and the property received in the form of inheritance, gifts, legacies, and so on, during the marriage. Each spouse is also entitled to half of the property. However, in certain exceptional cases, and at the request of one of the spouses, the court may decide otherwise in the light of the interests of the children.

337. In their own interests, the children are entrusted to the custody of one of the parents, by joint agreement. In principle, a breastfeeding child should be entrusted to the mother (art. 73). In the event of a dispute concerning custody of the children, the matter is resolved by the court. A divorced father or mother must contribute to the support and upbringing of his or her children in accordance with his or her means (art. 74). In practice, some parents, and especially fathers, fail to pay support to their children in accordance with the court ruling and disappear without leaving an address.

338. In 1994, according to statistics covering eight provinces, there were 106 cases of divorce. In Phnom Penh, 792 divorce petitions were settled and 2,532 others are pending.

339. In Cambodia, 95 per cent of acts of violence within the family are committed by the husband. In order to reduce or prevent these acts, the Office of the Secretary of State for Women's Affairs, in cooperation with UNICEF, held a conference from 14 to 17 December 1994 and adopted a two-year plan of activities for 1995-1997 as well as a long-term plan. The conference called on the Royal Government to develop and strengthen the capabilities and resources of the staff of the relevant departments, such as the courts and the criminal investigation departments, at the village, commune, district and provincial levels. Those committing domestic violence are punished in accordance with the law. The Office of the Secretary of State is currently examining the causes of such violence with a view to taking appropriate steps to halt it.

Article 24

Right to protection of the child

Paragraph 1

340. Cambodia acceded to the Convention on the Rights of the Child on 15 October 1992 and undertook to respect those rights. Article 48 of the Constitution stipulates: "The State guarantees and protects the rights of the child as contained in the various conventions relating to the child, and in particular the right to life, the right to education, and the right to be protected in the event of war and against exploitation for economic or sexual purposes. The State protects children against any work liable to jeopardize their education and studies, their health or their well-being." Every year, on 1 June, the Royal Government celebrates Universal Children's Day as a means of manifesting its support for the protection of children and its disapprobation of any form of violence against children.

341. The continuing warfare of the past two decades has had numerous serious consequences for the population of Cambodia. Children have been particularly hard hit, some 200,000 having been orphaned. The State has set up orphanages in the capital and the provinces. In Phnom Penh there are two and a third for babies, where orphaned children are housed and fed. Male and female teachers are assigned to the orphanages to teach the children up to the end of the primary cycle.

342. Article 47 of the Constitution stipulates that parents have a duty to feed, care for and educate their children so that they become good citizens.

Education of children

343. Article 68.1 of the Constitution and the declaration on the policy of the Royal Government guarantee children aged between 6 and 15 free education for at least nine years. At present in Cambodia 1,621,685 children are enrolled in primary school and 625,000 are attending secondary school.

344. Despite the State's concern for education, many children do not attend school or leave school to help their parents in the fields or to look after cattle. Most children only complete primary school; they are unable to go on to secondary school because of poverty. The Government has done its utmost to build more classrooms, with the essential desks and chairs, but it is not yet in a position to provide scholarships. In the remote countryside controlled by the Khmer Rouge there are no schools.

345. Article 47, paragraph 1, of the Constitution and article 115 of the Law on Marriage and the Family confer an important role on parents in looking after and educating children so that they become good citizens. However, some parents do not fulfil their obligations and allow their children to become delinquents. Others simply abandon their children and some sell them, all because of poverty.

346. The Royal Government has entrusted the Office of the Secretary of State for Women's Affairs the very important responsibility and role of helping

women and impressing upon families their obligations relating to the education and care of their children. At present, this Office has branches in the 22 provinces and municipalities which are aimed at promoting the development of Cambodian women so that they become good mothers and thereby ensure the healthy development of their children.

347. Articles 119-122 of the Law on Marriage and the Family give the courts the power to withdraw parental authority from persons who ill-treat their children, and establish parental obligations with regard to the care of children until they come of age. The Law contains rules for the custody of children in the event of divorce and establishes the obligations of divorced parents with regard to care of the children until their majority. The Law (arts. 72-78) makes it a criminal offence to refuse to pay maintenance for the care of children.

Other special measures for the protection of children

(a) Civil rights

348. The abduction of children for purposes of economic or sexual exploitation is prohibited (art. 48 of the Constitution and art. 3 of the Law on the prohibition and punishment of kidnapping and the sale and exploitation of human beings). This Law was enacted by the National Assembly on 16 January 1996. Despite the guarantees contained in the law and the Constitution, these problems remain and the competent bodies have succeeded in finding and arresting a number of criminals and bringing them before the courts. Unfortunately, however, the problems have not been completely overcome.

(b) Health

349. Article 72 of the Constitution provides that the health of the population must be guaranteed. The State must devote its full attention to the prevention and treatment of disease. Destitute persons receive free medical attention in hospitals, infirmaries and public maternity clinics. Article 73 stipulates that the State should devote particular attention to women and children. The declaration on the policy of the Royal Government of 29 October 1993 also provides that particular attention should be devoted to the health of mothers and children, while at the same time endeavouring to reduce infant mortality to the lowest possible level.

350. Pursuant to the above-mentioned principles, the child protection centres and paediatric clinics set up by the Ministry of Health mainly concern themselves with protecting and ensuring the health of mothers and children, and implementing the birth spacing programme. The Assistance to Children Department within the Ministry for Social Welfare, Labour and Veterans has also made a valuable contribution to the protection and improvement of the living conditions of children.

351. Every February and March since 1993, the Royal Government has organized a nationwide campaign to combat poliomyelitis in children under the age of five.

352. Despite the attention of the Royal Government, infant mortality remains high. According to UNICEF statistics, in 1994 infant mortality was 171 per 1,000, while in babies the rate was 181 per 1,000. These rates are due to various diseases.

(c) Criminal responsibility

353. Under articles 14.5 and 68.2 of the Transitional Criminal Law, juveniles under the age of 18 cannot incur criminal responsibility. Children under the age of 13 may not be held in detention. Young persons between the ages of 13 and 18 may not be held in detention for more than one month, although this period may be doubled in the case of a serious offence.

(d) Protection of child labour

354. Article 168 of the Labour Code guarantees particular protection for working children. The rules for the protection of working children are set out in various articles of the Code:

Children under the age of 18 are not authorized to work at night in factories or undertakings (art. 171);

Children's nightly rest period must be of at least 11 consecutive hours' duration (art. 172);

Children under the age of 16 may not be employed as skilled or unskilled workers or apprentices in factories (art. 173.1). Children are required to undergo a medical examination before starting work and subsequently at regular intervals (art. 173.4);

Children under the age of 18 working in undertakings are required to produce a medical certificate of their physical fitness to perform the volume of work required of them (art. 174);

The duration of apprenticeship for manual or occupational work by children under the age of 14 may not exceed three hours a day (art. 176);

Children under the age of 18 may not sign a contract of employment without the authorization of their parents or guardians (art. 177).

355. This law does not stipulate a minimum age for child labour. Many Cambodian children work in factories or craft workshops and on building sites. Poverty drives children to work on their own account, doing jobs such as collecting household waste. In the countryside, children work for their families. The International Labour Organization, with the approval of the Royal Government, has established a child labour assistance programme.

(e) Assistance to families and women

356. In order to assist children, the State must also assist families and, in particular, mothers. Article 46.3 of the Constitution provides that the State and society must create opportunities for women, and in particular for women

living in the countryside without support, in order that they may have a job and the opportunity to obtain medical treatment, to send their children to school and to enjoy decent living conditions.

357. Pursuant to these provisions, the Royal Government has granted monthly allowances to relatives of dead soldiers who are unable to care for their children. The Government has not been able to provide complete coverage, as there are still many families who are suffering and are unable to look after their children properly.

358. Society must also play an essential role in assisting families in difficulty, as stipulated in article 46.3 of the Constitution. At present, society does not have the means to assist needy families who are unable to raise their children decently because the basic structures are not yet consolidated or sound; there are in fact a number of children and young people who live in pagodas and receive assistance from Buddhist priests in order to pursue their studies. Some NGOs also help needy families to care for their children, and provide assistance to orphans and street children.

(f) Measures to assist orphans and homeless children

359. In order to assist orphans and abandoned children, the Royal Government has set up 20 centres in 16 provinces and municipalities which care for 2,041 children. These 20 centres include a crèche in Phnom Penh where 67 abandoned babies are being brought up. All the centres have been set up by the Ministry for Social Welfare, Labour and Veterans. Twelve other centres accommodating 739 children have received direct assistance from six NGOs. The Ministry has also cooperated with NGOS in setting up six centres for 231 homeless children in Phnom Penh. At the same time, UNICEF has made an important contribution to solving the problems of children in difficulty.

Paragraph 2

360. On the question of tne registration of children at birth, there is as yet no legislation in Cambodia providing for the keeping of registers of births, marriages and deaths. Council of State decision No. 153 of 28 June 1980, which is still in force, provides only for the issue of family record books. Thus, when a child is born, the parents ask for the child's name, sex, nationality, and date and place of birth to be entered in these books, which are kept in the commune or district concerned.

361. Despite the legal vacuum which exists in this respect, local authorities have designated registrars in the various cities and provinces to record declarations of birth and to issue certificates. In outlying areas there is still no registration of births. The draft Civil Code will include provisions concerning registers of births.

Paragraph 3

362. As to the right of every child to have a nationality, article 33 of the Constitution provides that no Cambodian citizen may be deprived of his nationality, the acquisition of Cambodian nationality being determined by law. In practice, no child in Cambodia has been refused recognition of his or her

nationality. The nationality is entered in family record books, which are recognized by Council of State decision No. 153. The National Assembly adopted the Nationality Law on 23 August 1996.

363. There is no discrimination between legitimate and natural children. Article 104 of the Law on Marriage and the Family stipulates that recognized natural children have the same rights and duties as legitimate children. Natural children have the same right to Cambodian nationality as legitimate children.

Article 25

Right to take part in public life

Paragraph 1

364. The Cambodian Constitution provides that Cambodian citizens have the same rights and freedoms and the same duties without discrimination (art. 31). Cambodian citizens of both sexes over the age of 18 have the right to vote and those aged 25 or over have the right to stand as candidates in an election.

365. Every five years Cambodian citizens of both sexes have the right to choose their 120 representatives in free and fair general elections conducted by secret ballot. Cambodian citizens of both sexes who have the right to vote, are aged 25 or over and are Cambodian by birth may stand for office in these elections (Constitution, arts. 76 and 78). Cambodian citizens also have the right and freedom to elect the members of local administrative bodies (communes and districts).

366. In the elections of May 1993, these rights were withdrawn from persons who had used forged voters' cards (UNTAC Electoral Law of 1992, para. 66). Persons infringing the provisions of that Law were liable to a fine (chap. 11, para. 92). In addition, persons whose criminal record shows that they have been guilty of an ordinary offence forfeit the right to vote. This also applies to all sentenced prisoners and all persons who have been deprived of their civil rights by court decision. The law does not allow foreign nationals the right to vote.

367. The citizens of Cambodia participated in the general election of 1981 to choose their 120 representatives in the National Assembly. Between 23 and 28 May 1993, 4,267,192 Cambodian citizens of both sexes (89.6 per cent of registered voters) participated in the election of their representatives organized by UNTAC. Twenty political parties had registered for these elections; 120 deputies, including 5 women, were elected to the Constituent Assembly. During the electoral campaign, there were widespread violations of human rights throughout the country. The terror and violence perpetrated against civilians and members of the opposition parties and UNTAC forces resulted, according to the final report of the UNTAC Human Rights Component, in the deaths of 296 persons (144 civilians, 116 Vietnamese nationals, 18 members of UNTAC and 18 Cambodians of Vietnamese origin; 325 persons were injured and 202 abducted). During the actual elections, however, there were far fewer acts of violence.

368. In order to guarantee free and democratic elections in May 1993, UNTAC and the Supreme National Council took numerous measures such as the deployment of police and military forces to ensure security at polling stations, and authorizing the existing courts to consider with complete impartiality any challenges relating to the elections.

369. The Royal Government has not yet organized local elections of new heads of communes and districts; it continues to recognize the old composition of communal and district authorities (letter No. 324 of the Ministry of the Interior dated 10 May 1994).

370. A problem has arisen concerning the right of citizens freely to choose their representatives and the right to take part in the political life of the country. On 22 June 1995, Mr. Sam Rainsy, deputy for the province of Siemreap, was dismissed from the National Assembly after being expelled from his political party. The legality, constitutionality and undemocratic nature of that measure was widely discussed. Mr. Chea Sim, President of the National Assembly, stated on 1 July 1995 that the United Nations Secretary-General's Special Representative for human rights in Cambodia, in his report to be sent to the General Assembly in September 1995, considered that in that matter there had been violations of the rights set forth in article 19 (freedom of expression) and article 25 of the Covenant.

Paragraph 2

371. Cambodian citizens of both sexes have the right to choose their occupation according to their capacity and the needs of society (Constitution, art. 36). In principle, the recruitment of candidates to the civil service must be by means of competitive examination, subject to any provisions to the contrary decided by the Royal Government (Common Statute for Civil Servants, art. 13).

372. Citizens of both sexes may be recruited to the civil service only when the conditions laid down in article 11 of the Common Statute are fulfilled, including the conditions relating to nationality, age and level of education. The law has granted priority and favourable conditions to women, candidates belonging to ethnic minorities and candidates from remote areas.

373. At present, the total number of civil servants in Cambodia is approximately 140,000. Since 1981, the State has, as a general rule, organized competitive examinations for entry into the civil service. However, some State employees are recruited without taking the examination, particularly into the armed forces. On occasion, unscrupulous individuals buy promotion or posts within State institutions, corruption being widespread in Cambodian society. In the face of these problems, the Royal Government is in the process of merging the various branches of the armed forces into a single national force, in particular reducing numbers and ranks. In addition, for 1996 and 1997 the Royal Government decided to reduce the number of civil servants by 20 per cent and banned new recruitment, except in the education sector, where teachers are still being recruited.

Article 26

Right to equality before the law

374. The right to equality before the law without distinction as to race, colour, sex, religion, language, political views, social status, birth, property or any other status is guaranteed and protected by the Constitution (art. 31).

375. In accordance with article 31.2 of the Constitution, citizens of both sexes have the right to choose their occupation and to receive an equal wage for equal work (art. 36, paras. 1 and 2). Women have the same rights as men to vote, to stand for election and to take part in the political, economic, social and cultural life of the nation (arts. 34 and 35). The Constitution also guarantees equality in teaching and education (art. 66). Men and women have the same rights in all areas, and in particular in marriage and the family (art. 46.3). They have the same obligations with regard to the care and education of children (art. 47.1), and the right to divorce (art. 39).

376. The right to equality before the law, which is thus guaranteed by the above-mentioned legal provisions, is not at present correctly implemented in Cambodia. That question has already been dealt with earlier in this report (see paras. 59-88, comments on arts. 2 and 3 of the Covenant).

377. On the question of equality before the courts, the right of defence in the courts is protected by the Constitution (art. 37.8). Victims have the right to ask the court to dispense justice and persons found guilty are punished under the law. However, this principle is not yet properly implemented in practice because certain individuals use their power or wealth to intimidate or bribe the court and thereby escape punishment or conceal their misdeeds. That question has also been dealt with in this report (see paras. 202-261, comments on art. 14 of the Covenant).

Exceptions to the principle of equality before the law

378. In principle, equality before the law is universal and applicable to all without discrimination. However, the law provides for exceptions in certain cases in order to ensure better protection of the most vulnerable. For example, minors who have committed offences must be tried and imprisoned separately from adults. Children under the age of 13 may not be held in detention. Young persons between the ages of 13 and 18 may not be detained for more than one month. If they are found guilty, the penalties imposed on them are lighter (see paras. 169-187, comments on art. 10 of the Covenant). Convicted women must also be imprisoned separately, but there are not yet any further legal provisions specifically applicable to women.

379. At present these principles are not yet being properly implemented in Cambodia because there are neither juvenile courts nor separate places of detention. All detainees are held in a single prison, but minors and women are separated from men. Thanks to the assistance of international organizations, the Royal Government has set up a rehabilitation centre for minors.

380. The 1993 Constitution has also provided for particular cases and exceptions to equality before the law. Articles 46.3 and 48.1 provide that particular attention must be given to women in rural areas and to the protection of children. Article 72 refers to free medical consultations for destitute persons, while article 74 guarantees assistance to disabled persons and to the relatives of soldiers who have died for the country.

381. The Royal Government is endeavouring to put into practice these principles, which are guaranteed by the Constitution. However, because of the current difficult economic and financial situation, the attainment of these objectives will still take some time. The Government has sought the assistance of the international community and has authorized international organizations to set up assistance programmes for children, women, widows, needy persons, disabled persons and members of ethnic minorities.

Article 27

Rights of persons belonging to ethnic, religious or linguistic minorities

382. Cambodia recognizes and protects the rights of persons belonging to ethnic, religious or linguistic minorities in its territory to have their own cultural life, their own religion and their own language, whether or not they are of Cambodian nationality. The term "Cambodian citizen" designates any person living on the territory of Cambodia, regardless of his ethnic origin, whose Cambodian nationality is recognized. It is in this sense that persons belonging to ethnic groups are also Cambodian citizens. Name, sex, ethnic group and nationality are stated in official documents such as family record books and identity cards. Equality in law is recognized for all Cambodian citizens without distinction as to race, colour, sex, language, religious belief, political views, birth, social status, property or other status (Constitution, art. 31.2).

383. Freedom of religious belief and freedom to practise one's religion are guaranteed by the State on the single condition that they should not jeopardize the freedom of religion of others, or public order and security (Constitution, art. 43).

384. Cambodia recognizes and respects human rights as defined in the various international human rights instruments. Any racial discrimination is forbidden (Constitution, art. 31).

385. The population of Cambodia is 9,869,749. Of these:

90 per cent are Khmers;

5 per cent are persons of Vietnamese origin;

Approximately 200,000 are of Chinese origin;

Approximately 200,000 are Muslim Khmers or Chams who practise the Islamic religion;

75,000 are persons belonging to 16 indigenous minorities speaking different languages and living mainly on the high plateaux in north-eastern Cambodia (e.g. Jarai, Tampuan, Kavet, Stieng, Pear, Samrè);

50,000 are Krom Khmers, i.e. Khmers originating from Kampuchéa Krom (currently in southern Viet Nam).

386. There are also other minorities in Cambodia such as the Thai, Lao and Burmese minorities, but the Government has little information about them. Generally speaking, the Government does not have enough information on the ethnic minorities. Studies are being conducted to compile as much information as possible in order to help preserve the cultural, linguistic and religious identity of these minorities. In August 1995, a conference was held in Phnom Penh on the situation of the indigenous minorities in north-eastern Cambodia who are currently confronted with problems relating to the development of that region. At the conference, the consequences of the development of infrastructure, tourism and deforestation for the minorities were discussed, and the Government reiterated its support for the preservation of the cultural, religious and linguistic rights of the minorities.

387. Customs, religious beliefs and languages are freely practised by persons belonging to these groups. Article 5 of the Constitution provides that the official language and script is Khmer. However, that does not prevent persons belonging to minorities from using their own language. Some groups have their own language schools.

388. In the remoter regions of the country, members of ethnic minorities serve as heads of villages, communes and districts and provincial governors (e.g. in the province of Rattanakiri). The National Assembly has six members who are from ethnic minorities, and there are many ethnic-minority associations.

389. The Royal Government has consistently paid particular attention to the right to life of all persons belonging to minorities living anywhere in Cambodia. It denounced the abduction, intimidation and massacre by the Khmer Rouge of 18 Vietnamese in July and September 1993 and a further 6 in November and December of the same year in the province of Kampong Chnang. In order to prevent acts of violence by the Khmer Rouge, the Government has used all available means, and in particular peaceful means, appealing to Khmer Rouge soldiers to rally to and rejoin national society. By January 1995, 5,000 people had heeded that appeal (statement of Samdech Krom Preah Norodom Ranariddh, First Prime Minister, in January 1995).

390. Following threats and massacres by the Khmer Rouge in 1993-1994, some 5,000 people of Vietnamese origin sought refuge on the Khmer-Vietnamese frontier along the Tonlé Bassac. On the occasion of his visit to the Socialist Republic of Viet Nam in January 1995, Samdech Krom Preah Norodom Ranariddh discussed the problem of Vietnamese nationals with the Vietnamese authorities. The two parties agreed to set up an ad hoc commission in Cambodia to consider the problem with the aim of finding an appropriate solution. This commission has examined the situation of persons in Chrey Thom on a case-by-case basis, and several families have been authorized to return to Cambodia.

ANNEXES

1. 1993 Constitution of the Kingdom of Cambodia.

2. Provisions relating to the judicial system, criminal law and criminal procedure applicable in Cambodia during the transitional period.

3. 1993 Criminal Procedure Law.

4. 1989 Law on Marriage and the Family.

5. 1992 Labour Code.

6. 1989 Criminal Procedure Law.

7. 1994 Law on the establishment and functioning of the Supreme Council of Justice.

8. 1994 Law on the Outlawing of the Democratic Kampuchea Group.

9. 1994 Law establishing official statutes for ministers and civil servants of the Kingdom of Cambodia.

10. 1992 Press Law.

11. 1993 Law relating to the organization and functioning of the judiciary.

12. 1992 Law on the procedure for execution of civil judgements.

13. Immigration Law.

14. UNTAC Electoral Law.

15. UNTAC directive relating to ownership and possession of weapons and explosives, applicable during the transitional period.

16. 1991 Law on Demonstrations.

17. Decree-Law No. 38 of 1988 on contracts and extra-contractual responsibility.

18. Sub-decree No. 9 of 15 November 1993 on the regime for convicted and unconvicted prisoners.

19. Sub-decree No. 17 relating to the role, tasks and structure of the juvenile rehabilitation centre.

20. Decree-Law No. 02 of 1980 establishing penalties for acts of treason against the revolution and various other offences.

21. Report of the Cambodia Mine Action Centre.

22. Royal Government letter No. 351 of 6 March 1995 on the authorization of judicial proceedings against public servants who break the law.

23. Prakas No. 278 of 7 July 1993 issued by the Ministry of Justice, the Ministry of the Interior and the Ministry of Health prohibiting the wearing of shackles and chains by prisoners.

24. Letter No. 509 of the Ministry of Justice dated 13 July 1993.

25. Letter No. 816 of the Ministry of Health dated 3 May 1994.

26. Letter No. 653 of the Ministry of the Interior dated 4 June 1993.

27. Internal regulations of the Ministry of the Interior.

28. United Nations Standard Minimum Rules for the Treatment of Prisoners.

29. Directive No. 474 of the Ministry of the Interior dated 2 July 1994 (relating to associations).

30. Letter No. 412 of the Ministry of the Interior dated 11 June 1994.

31. Letter No. 288 of the Ministry of the Interior dated 27 April 1994.

32. Letter No. 088 of the Ministry of the Interior dated 3 September 1993.

33. Decision No. 153 of the Cambodian Council of State dated 28 June 1980.

34. Letter No. 1,370 of the Ministry of Information dated 16 December 1995.

35. Directive No. 666 of the Ministry of Information dated 16 July 1994.